CHIEF'S STATEMENT

As your Chief of Police, I am proud of the Newport Beach Police Department and every member of our organization. Organizations are only as good as the personnel who staff them. The employees and volunteers of the Newport Beach Police Department are our most valuable resources. To be effective and accomplish our mission, the department must provide you with guidance, direction, and leadership in the form of policies and procedures.

This Policy Manual is a living document that is subject to constant change. The manual was prepared with technical and professional assistance. New laws, court decisions, operational methodologies, and other factors dictate the need for a continual review of these policies, and the initiation of revisions where necessary and appropriate. These changes will be issued in the form of Departmental Directives which will be incorporated into the manual on an ongoing basis.

It is recognized that no set of policies and procedures, no matter how complete, can address all the situations that may be encountered. There will be situations that occur that must be left to the good judgment and discretion of the persons involved. This judgment and discretion must be employed with sound reason.

It is the responsibility and duty of every employee to become thoroughly familiar with the contents of this manual. The department intends to promote ongoing customized training that will help you with that effort. The information contained in the manual should be followed as closely as circumstances permit.

Upon distribution or revision of this manual, all other existing orders, policies and regulations that are in conflict are revoked.

Dave Miner

Chief of Police

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PREFACE TITLE

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MISSION STATEMENT

The Newport Beach Police Department is committed to providing our Community with the highest quality police services possible to maintain the quality of life that is cherished by those who reside, work and visit here.

Our mission is to:

Respond positively to the Community's needs, desires and values and in so doing be recognized as an extension and reflection of those we serve.

Strive to provide a safe and healthy environment for all, free from violence and property loss resulting from criminal acts, and injuries caused by traffic violators.

Manage inevitable change and welcome the challenge of future problems with creative solutions, which are financially prudent and consistent with Community values.

In support of our mission the Department will:

Employ a work force comprised of individuals who are committed to excellence and have the highest standard of ethics.

Create a healthy work environment for our employees in order to achieve the highest level of morale possible, while stimulating both personal and professional growth.

Provide effective leadership, training, public education, and current technological support.

Create opportunities for candid exchanges of information, both internally and with the Community in order to foster positive working relationships with those involved in helping us achieve our goals.

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Chapter 1 - Law Enforcement Role and Authority

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Law Enforcement Authority

100.1 PURPOSE AND SCOPE

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

100.2 PEACE OFFICER POWERS

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

100.2.1 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE NEWPORT BEACH POLICE DEPARTMENT

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

(a) When the officer has probable cause to believe the person has committed a felony, whether or not committed in the presence of the officer.

(b) When the officer has probable cause to believe the person has committed a misdemeanor in this jurisdiction and in the presence of the officer.

(c) When the officer has probable cause to believe the person has committed a public offense outside this jurisdiction, in the presence of the officer and the officer reasonably believes there is an immediate danger to person or property, or of escape.

(d) When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized or required by statute even though the offense has not been committed in the presence of the officer such as certain domestic violence offenses.

(e) In compliance with an arrest warrant.

100.2.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE NEWPORT BEACH POLICE DEPARTMENT

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

(a) When the officer has probable cause to believe the person committed a felony.

(b) When the officer has probable cause to believe the person has committed a misdemeanor in the presence of the officer and the officer reasonably believes there is immediate danger to person or property or of escape.

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

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

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(e) In compliance with an arrest warrant.

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

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

100.2.3 TIME OF MISDEMEANOR ARRESTS

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

(a) The arrest is made without a warrant pursuant to Penal Code § 836 which includes:

1. A misdemeanor committed in the presence of the officer.
2. Misdemeanor domestic violence offenses (See the Domestic Violence Policy).

(b) The arrest is made in a public place.

(c) The arrest is made with the person already in custody pursuant to another lawful arrest.

(d) The arrest is made pursuant to a warrant which, for good cause shown, directs that it may be served at any time of the day or night.

100.2.4 OREGON AUTHORITY

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

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

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

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

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

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

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100.3 THE POLICE ROLE

The police employee is a member of the community he or she serves. His/her actions must be coordinated with those of fellow community members in their mutual efforts to provide a safe, comfortable community. The mutual advantages of a relationship of respect between the members of a community and their police department should be widely understood and fully appreciated. The success of a police department is largely a result of the support and cooperation it receives from the people it serves. Therefore, it is of paramount importance to secure the confidence, respect and approval of the public. Policies designed to enhance good police community coordination anticipate active participation by every member of the Department.

The most important factor in gaining the confidence and participation of the community members is an attitude of courtesy and objectivity toward people in all contacts.

Courtesy must be practiced by department members in order to earn the respect and support of the community. In a free society, any government agency that fails to earn and maintain this support cannot hope to attain its goals. Courtesy encourages cooperation and wins respect; discourtesy breeds obstruction and contempt. While members of this department often encounter situations which may make formal courtesies impractical, the nature of the work is never an excuse for discourtesy.

Whenever practical, all members are expected to identify themselves by title and name at the start of any contact with a citizen. Greetings are the first and best opportunity to set the tone of an encounter. The more cordial, or at least neutral, an encounter can be kept, the more the participants can concentrate on the business at hand.

Personnel should always be aware of their tone of voice. The voice should not betray anger, contempt, sarcasm or other tones that are likely to provoke opposition. Likewise, care should be taken to avoid raising voice volume out of emotion or merely because another party has raised their voice. Shouting matches are rarely productive and often give the impression the department member is losing control of the situation.

While employees must often assume stances that are required to preserve safety during encounters with the public, care must be taken to avoid mannerisms that needlessly provoke negative reactions from citizens. The display of friendly, or at least neutral, expressions is encouraged as an effective way to gain the cooperation of the public.

Any remark or form of address which ridicules a citizen, expresses contempt, or is calculated to provoke is never appropriate. Similarly, profanity should not be used. Citizens often direct anger and frustration against police employees and there is a constant temptation to reply in kind. Do not give in to it. There is nothing to gain from replying to insults, and much to lose if the employee engages in offensive behavior or speech. It is important to preserve a clear distinction between the professional and proper behavior of our employees and the offensive behavior of some citizens. The best way to handle insulting or offensive behavior is to ignore it.

The most frequently overlooked courtesy is the simple act of explaining what we are doing. Most citizens are unfamiliar with laws and police procedures. When people don't know or understand

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the reason for our actions, they may assume the action is improper, arbitrary or capricious. This can provoke suspicion, anger or reduced willingness to cooperate. It is both easier and more effective for you to explain your actions to a citizen than it is for a supervisor to try to explain them on your behalf.

Listening is an important technique employees can use to demonstrate consideration for the citizen's feelings. Impressions like the employee was "cold," "indifferent", or "uncaring", usually have one thing in common: the citizen felt the employee would not provide them the courtesy of listening to an explanation. Whenever practical, employees should give citizens an opportunity to express their views and acknowledge they have been heard. It is possible to listen to what is said without approving of the content or excusing the behavior being discussed. When people have something to say, they will be heard. If you don't take the time to listen, they will find someone else who does.

You are a member of one of the finest law enforcement organizations in the country. People in our community feel safe and are extremely proud of their Police Department. You have tremendous support from an overwhelming majority of the people you serve.

Most people have very little contact with our department. For a majority of the community, their individual encounters with us occur literally years apart and leave lasting impressions about our department's quality of service and professionalism. Each request for service or assistance, and each law enforcement contact, is an opportunity to demonstrate courtesy and service. All employees have the authority and duty to ensure the highest possible level of police service is provided.

It is also important that the Department members, individually and collectively, demonstrate the knowledge and capacity to provide the highest level of police service.

Each member of the Department must be prepared by study, training, and self-discipline to meet the responsibilities of the police service. Self-confidence comes from experience gained through the diligent performance of duty. Courtesy, patience, and tact are characteristics of the experienced, competent police employee.

Department employees must realize their activities are matters of particular interest, not only to those with whom they have direct dealings, but also to the general public.

Courage displayed in moments of danger or a calm objective approach at the scene of disorder evokes admiration and respect. Sympathetic interest in caring for children or in rendering aid to the injured, aged or infirm creates sincere affection. Firmness without demonstrating any personal feelings or use of unnecessary force in effecting arrests or performing other necessary police duty will merit respect, even of the offender.

It is not sufficient that employees do a professional job. It is of equal importance that people believe that such is the case.

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People naturally look to their police force for security in their person, homes, and property. Police service includes not only programs for youth and traffic safety, but active participation during emergencies and major disasters.

The quality of life in a community reflects the degree to which the community members and the police have developed a strong working relationship of trust and respect. In Summary:

- The personal conduct of each member of the Department is the primary factor in promoting public trust. Tact, patience, and courtesy shall be employed under all circumstances.
- An employee is a public official representing all the community's members. Each employee shall maintain a positive professional attitude and demeanor devoid of any expression of biases or prejudices.
- Superior officers shall personally demonstrate, and shall instruct subordinates in proper deportment and desirable attitudes in their dealings with the public.
- Members of the Department shall avoid behavior which would bring discredit to the Department. Their conduct, whether on or off duty, shall be such as to merit respect and confidence.
- Officers shall diligently perform their duty with professional dignity.
- Each officer shall perform their duty fearlessly and impartially, keeping uppermost in their minds that they are the guardian of the people's Constitutional Guarantees and Civil Rights, as well as the protector of their lives and property.

100.4 POLICY

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

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

100.5 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

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

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

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

100.6 CONSTITUTIONAL REQUIREMENTS

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

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Chief Executive Officer

101.1 PURPOSE AND SCOPE

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

101.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS

Any chief executive officer of this department appointed after January 1, 1999, shall, as a condition of continued employment, complete the course of training prescribed by POST and obtain the Basic Certificate by POST within two years of appointment (Penal Code § 832.4).

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Oath of Office

102.1 PURPOSE AND SCOPE

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

102.2 POLICY

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

102.3 OATH OF OFFICE

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

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

102.4 MAINTENANCE OF RECORDS

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

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Policy Manual

103.1 PURPOSE AND SCOPE

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

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

103.1.1 DISCLAIMER

The provisions contained in this 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 Newport Beach 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 employees. Violations of any provision of any policy contained within this manual shall only form the basis for departmental administrative action, training or discipline. The Newport Beach Police Department reserves the right to revise any policy content, in whole or in part.

103.2 POLICY

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

103.2.1 DISCLAIMER

The provisions contained in the Policy Manual are not intended to create an employment contract nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Newport Beach 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 Newport Beach Police Department reserves the right to revise any policy content, in whole or in part.

103.2.2 COMMAND STAFF

Command Staff shall consist of the following:

- Chief of Police
- The Deputy Chief and Deputy Director from each division

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- The Executive Officer

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

103.2.3 AMENDMENTS TO THE DEPARTMENT MANUAL

All Department employees suggesting revision of the contents of the Department Manual shall complete an Employee Recommendation Report [15.7.2] and forward it through their Chain of Command to the Support Services Division Commander for consideration. If the Support Services Division Commander approves the Employee Recommendation Report, a Project Request [15.25] will be initiated and the project will be assigned to a member of the Support Services Division. Unapproved Employee Recommendation Reports shall be returned to the originating Division Commander.

The assigned Support Services Division member shall:

- Research and develop the proposed amendment.
- Prepare a projects approval folder with a routing slip to include Command Staff.
- Upon approval, arrange for inclusion in the Department manual.

103.3 AUTHORITY

The Chief of Police shall be considered the ultimate authority for the content and adoption of the provisions of this manual and shall ensure compliance with all applicable federal, state and local laws. The Chief of Police or the authorized designee is authorized to issue Departmental Directives, which shall modify those provisions of the manual to which they pertain. Departmental Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

103.3.1 ACCEPTABLE ABBREVIATIONS

The following abbreviations are acceptable substitutions in the manual:

- Departmental Directives may be abbreviated as "DD"
- Department Manual sections may be abbreviated as "Section 106.X" or "§ 106.X"

103.3.2 DEFINITIONS

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

Adult - Any person 18 years of age or older.

CHP - The California Highway Patrol.

CFR - Code of Federal Regulations.

City - The City of Newport Beach.

Department/Department acronym: - The Newport Beach Police Department / NBPD.

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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 Newport Beach Police Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

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

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

Officer/Sworn - Those employees, regardless of rank, who are sworn employees of the Newport Beach Police Department.

On-Duty - Employee status during the period when he/she is actually engaged in the performance of his/her assigned duties.

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

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

Rank - The job classification title held by an officer.

Shall or will - Indicates a mandatory action.

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

USC - United States Code

103.3.3 DISTRIBUTION OF MANUAL

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

- Support Services Division
- Watch Commander's Office

A computerized version of the Policy Manual will be made available on the Department network for access by all employees. The computerized version will be limited to viewing and printing of specific sections. No changes shall be made to the electronic version without authorization from Command Staff.

103.4 DEFINITIONS

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

Adult - Any person 18 years of age or older.

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

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CHP- The California Highway Patrol.

CFR - Code of Federal Regulations.

City - The City of Name of your jurisdiction:.

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

Department/Department acronym: - The Newport Beach Police Department.

DMV - The Department of Motor Vehicles.

Employee - Any person employed by the Department.

Juvenile- Any person under the age of 18 years.

Manual - The Newport Beach Police Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the Newport Beach Police Department, including:

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

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

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

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

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

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

Shall or will - Indicates a mandatory action.

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

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

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

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

USC - United States Code.

103.4.1 REVISIONS TO POLICIES

All employees are responsible for keeping abreast of all Policy Manual revisions. All changes to the Policy Manual will be posted on the Department Intranet Home Page under the title Recent Policy Manual Revisions. The Training Manager will forward revisions to the Policy Manual as needed to all personnel via electronic mail. Each employee shall acknowledge receipt electronically, review the revisions and seek clarification as needed.

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

103.5 MAINTENANCE AND UPDATING OF THE DEPARTMENT MANUAL

SUPPORT SERVICES DIVISION RESPONSIBILITY

- As changes to the manual are made, a designated employee of the Support Services Division shall ensure that:
  - (a) Each complete copy of the Department Manual is updated by distributing the revised Table of Contents, Sections, and Index annually.
  - (b) The on-line manual is modified including the Table of Contents, Sections, and Index.
  - (c) When changes have been made to the manual, notify all affected employees of the changes via electronic mail. This will include verbatim copies of the changed section(s).

103.6 UPDATING OF MUNICIPAL CODES

Actions by the City Council may modify the Municipal Code. The Department is notified by receipt of such amendments or revised pages of the Code.

PLANNING AND RESEARCH UNIT

The Planning and Research Unit shall distribute Municipal Code amendments to the office of each Division Commander.

DIVISION COMMANDERS

Each division commander shall ensure all Municipal Codes assigned to his or her division are updated as the amendments are received.

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103.7 REVISIONS TO POLICIES

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

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

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

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

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Law Enforcement Code of Ethics

105.1 PURPOSE AND SCOPE

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

105.2 POLICY

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

105.3 LAW ENFORCEMENT CODE OF ETHICS

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against abuse or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

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

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

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

105.3.1 OBJECTION TO RELIGIOUS AFFIRMATION

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

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Chapter 2 - Organization and Administration

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Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

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

200.1.1 DEPARTMENT ORGANIZATION - DEFINITION OF TERMS

Organization - shall mean the structure of the Department. It results from a division of the duties placed upon the Chief of Police into subdivisions, grouped according to related functions. Its purpose is to ensure coordination and the accomplishment of Departmental objectives.

Function - shall mean the broadest course of action or task performed by an organizational unit. It includes the objective of the unit and those unique aspects which distinguish one organizational unit from another.

Command Staff - an administrative entity, composed of the Chief, the Deputy Chiefs, the Deputy Director, and the Executive Officer.

Management Team - an administrative entity composed of all supervisory sworn and civilian personnel.

200.1.2 TITLES OF ORGANIZATIONAL UNITS

The magnitude of the task imposed upon the Chief of Police is such that it necessitates the segregation of employees into organizational units. The organizational units so established are as follows:

Department - shall refer to the Newport Beach Police Department.

Division - a grouping together of similar activities into a major functional entity.

Section - an element assigned to perform a major activity within a Division.

Unit - an element assigned to perform a specific activity within a Division or Section.

Detail - an element assigned to perform a specific task, usually of a short-term nature.

Area - a geographical patrol area of responsibility.

200.1.3 OFFICES AND DIVISIONS

The Department shall be divided into the following primary elements:

- Office of the Chief of Police
- Support Services Division
- Patrol / Traffic Division
- Detective Division

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200.1.4 DIVISIONAL ORGANIZATION

SUPPORT SERVICES DIVISION

The Support Services Division shall be divided into the following:

- Information Technology Section
- Administrative Services Section
- Records and Evidence Section
- Communications Section

PATROL / TRAFFIC DIVISION

The Patrol / Traffic Division shall be divided into:

- Area 1
- Area 2
- Area 3
- Area 4
- Custody Section
- Traffic Enforcement Section
- Traffic Investigation Unit
- Parking Control
- Animal Control

DETECTIVE DIVISION

The Detective Division shall be divided into the following:

- Crime Analysis Unit
- Crime Scene Investigation Unit
- Crime Suppression Unit
- Crimes Against Person Unit
- Property Crimes Unit
- Special Investigations Unit
- Special Victims Unit

200.2 RESPONSIBILITIES OF RANK

200.2.1 CHIEF OF POLICE

The Chief of Police is responsible for ensuring that the provisions of Newport Beach Municipal Code 2.12.110 are fulfilled.

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200.2.2 DEPUTY CHIEF / DEPUTY DIRECTOR

A Deputy Chief/Deputy Director exercises command over a division of the Department. A Deputy Chief/Deputy Director is responsible for:

- Serving as a member of the Command Staff and Management Team.
- Establishment of divisional goals.
- Supervision and direction of subordinates toward achievement of divisional and departmental goals in accordance with established policies and procedures.
- The formulation of programs and strategies to achieve goals.
- Development and administration of the budget for the division.
- Maintenance and administration of discipline of personnel in the division.
- Coordination of activities with other divisions in the Department toward the achievement of organizational goals and objectives.
- Acting in an advisory capacity to the Chief of Police.

200.2.3 LIEUTENANT

A Lieutenant is responsible for:

- Serving as a member of the Management Team.
- Supervision and direction of daily activities of a watch, section or area.
- Deployment of resources (equipment and personnel) of a watch, section or area.
- Establishing strategies and programs to meet divisional goals.
- Ensuring employees' adherence to departmental policies and procedures.
- Providing the Division Commander with continuing input on divisional needs and problems.
- Complete staff work as directed by the Division Commander.

200.2.4 SERGEANT

A Sergeant is responsible for:

- Serving as a member of the Management Team.
- Direct supervision of any subordinate or assigned personnel performing duties in his or her presence.
- Providing guidance and advice to assist personnel in the performance of their duties.
- Developing and training assigned subordinates according to their specific needs.
- Interpreting and disseminating departmental policies and regulations for subordinates.
- Initial investigation of personnel complaints; resolution of grievances within his or her authority; and maintaining discipline.

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- Keeping superiors informed about the work, attitudes and desires of subordinates and related matters.

200.2.5 COMMUNICATIONS MANAGER / COMMUNICATIONS SUPERVISOR

A Communications Manager is responsible for:

- Serving as a member of the Management Team.
- Supervision and direction of daily activities of subordinates in the Communication Section.
- Providing guidance and advice to assist Communications personnel in the performance of their duties.
- Developing and training assigned subordinates according to their specific needs.
- Initial investigation of personnel complaints; resolution of grievances within his/her authority; and maintaining discipline.
- Interpreting and disseminating departmental policies and regulations for subordinates.
- Keeping superiors informed about the work, attitudes and desires of subordinates and related matters.
- Revising and updating the Communications and Emergency Response manuals.
- Assisting in budget preparation and long-term planning.

A Communications Supervisor is responsible for:

- Performing the duties of a Communications Supervisor.
- Supervision and direction of subordinates in the Communications Section on a given shift.
- Resolving problems that arise during a given shift, and maintaining harmony in the work unit.
- Suggesting operational improvements; assisting in budget preparation and long-term planning.
- Maintaining a quality training program and monitoring new personnel.
- Assisting in preparation of Performance Evaluations and work schedules.
- Revising and updating resource materials and the Dispatch manual.

200.2.6 RECORDS AND EVIDENCE MANAGER / RECORDS SUPERVISOR

A Records and Evidence Manager is responsible for:

- Serving as a member of the Management Team.
- Being the Department's Custodian of Records.
- Managing the Department's Records Section.

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- Supervision and direction of daily activities of subordinates in the Records Section, Data Processing, Front Desk and Property Units.
- Providing guidance and advice to assist subordinates in the performance of their duties.
- Developing and training assigned subordinates according to their specific needs.
- Initial investigation of personnel complaints; resolution of grievances within his/her authority; and maintaining discipline.
- Interpreting and disseminating departmental policies and regulations for subordinates.
- Keeping superiors informed about the work, attitudes and desires of subordinates and related matters.
- Assisting in budget preparation and long-term planning.

A Records Supervisor is responsible for:

- Performing the duties of a Records Supervisor.
- Supervision and direction of subordinates in the Records Section on a given shift.
- Suggesting operational improvements; assisting in budget preparation and long-term planning.
- Maintaining a quality training program, and monitoring new personnel.
- Assisting in preparation of performance evaluations and work schedules.
- Revising and updating resource materials and the Records Section Manual.

200.2.7 PARKING CONTROL SUPERVISOR

A Parking Control Supervisor is responsible for:

- Serving as a member of the Management Team.
- Supervision and direction of daily activities of subordinates in the Parking Control Unit.
- Performing duties of a Parking Control Officer as needed.
- Providing guidance and advice to assist Parking Control personnel in the performance of their duties.
- Developing and training assigned subordinates according to their specific needs.
- Initial investigation of personnel complaints; resolution of grievances within his/her authority and maintaining discipline.
- Interpreting and disseminating departmental policies and regulations for subordinates.
- Keeping superiors informed about the work, attitudes and desires of subordinates and related matters.
- Revising and updating the Parking Control Officer manual.
- Assisting in budget preparation and long-term planning.

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- Supervising, directing and evaluating the activities of Parking Control Officers or other staff as assigned.
- Providing training and instruction for newly hired or assigned personnel.
- Performing related duties as assigned.

200.2.8 ANIMAL CONTROL SUPERVISOR

An Animal Control Supervisor is responsible for:

- Performing the duties of an Animal Control Officer.
- Supervision and direction of daily activities of subordinates in the Animal Control unit.
- Providing guidance and advice to assist Animal Control personnel in the performance of their duties.
- Developing and maintaining the Animal Control Officer Field Training program.

200.2.9 POLICE OFFICER / CIVILIAN EMPLOYEE

Police Officers and civilian employees are responsible for:

- Carrying out orders and directives of the Department.
- Familiarizing themselves with the requirements of their current assignments and developing the requisite skills for optimum task performance.
- Completing assignments in an effective manner.
- Advising superiors of observed operational needs or any developing issue which might impact the Department.
- Analyzing Departmental operations and submitting recommendations for appropriate modifications.
- Controlling incidents or activities in their area of assignment.

200.2.10 POLICE COMPUTER SYSTEMS MANAGER

A Police Computer Systems Manager is responsible for:

- Recommending goals and objectives and assisting in the development of policies and procedures for computer operations.
- Conducting systems analysis and design for new projects or systems revisions.
- Performing integration of multiple systems.
- Developing and recommending cost effective technical systems improvement.
- Recommending the purchase of necessary hardware, software, equipment, services and supplies.
- Preparing the Computer Sections budget and assisting in budget implementation.
- Participating in the forecast of additional funds needed for equipment, materials and supplies.

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- Planning, directing, and participating in the training of staff throughout the Department and assisting users in solving problems or suggesting alternative methods of operation.
- Coordinating computer operations throughout the Department and with outside agencies.
- Preparing and presenting staff and technical reports.
- Evaluating the Department's long-range technological needs.
- Implementing standard backup procedures and developing a disaster recover plan for all computer operations.
- Performing related duties as assigned.

200.3 OFFICE OF THE CHIEF OF POLICE

The Office of the Chief of Police is responsible for assisting the Chief of Police in the management and administration of the Department. The positions assigned to the Office of the Chief of Police have the following responsibilities:

200.3.1 CHIEF OF POLICE

The Chief of Police shall be accountable for ensuring that the general functions of the Department, as described in Section 2.12.110 of the City Municipal Code, are effectively carried out.

200.3.2 EXECUTIVE OFFICER

The Executive Officer is responsible for:

- Serving as member of the Command Staff and Management Team.
- Serving as assistant to the Chief of Police in carrying out the Chief's responsibilities to members of the Department, the public and other government agencies.
- Supervising the following units:
    - Community Relations
    - Volunteers in Policing
    - Professional Standards Unit
- Reporting all facts of any in-custody death to the California Attorney General within ten (10) days of the death.
- Reviewing applications for the Volunteer Unit.

200.3.3 COMMUNITY RELATIONS UNIT

The Community Relations Unit is responsible for:

- Coordinating special activities between the Department and the community.
- Acquainting itself with individuals and organizations involved in social or community service.
- Media relations.

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- Performing special assignments under the direction of the Chief of Police.
- Interviewing applicants for the Volunteer Unit.

200.3.4 VOLUNTEER UNIT
The Volunteer Unit shall consist of citizens interested in assisting the Newport Beach Police Department. Applicants shall contact the Volunteer Unit Supervisor for interview. The Volunteer Unit Supervisor shall investigate the background of the applicant, and present the results thereof to the Executive Officer for approval. Division Commanders will then review each application, and appointments shall be made at the discretion of the Chief of Police. Members of the unit shall have no regular or reserve peace officer status, and shall receive no monetary compensation. Unacceptable applicants shall be so informed.

200.3.5 PROFESSIONAL STANDARDS UNIT
The Professional Standards Unit is responsible for:

- Coordinating the receipt, investigations, and disposition of all personnel complaints against employees of the Department.
- Investigating personnel complaints, claims, and civil suits alleging misconduct against employees of the Department or as directed by the Chief of Police.
- Ensuring procedures are being adhered to and the desired level of service is provided.

200.4 SUPPORT SERVICES DIVISION
The Support Services Division is responsible for:

- Communications
- Records
- Front Desk operations
- Training of personnel
- Planning and research
- Maintenance of the police facility and equipment
- Requisition of department supplies
- Clerical operations
- Personnel recruitment and hiring
- Budget preparation and administration
- Range operations
- Custody of evidence and property
- Alarm control
- Cadet program

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- Student intern program
- Information Technology
- Fleet operations and maintenance

200.4.1 SUPPORT SERVICES DIVISION COMMANDER

The Support Services Division Commander exercises line command over the personnel of the Support Services Division.

200.4.2 SUPPORT SERVICES LIEUTENANT

The Support Services Lieutenant is responsible for:

- Exercising line command over all the work units of the Division except for the Fiscal/ Facilities Manager and Division Administrative Technician.
- Assisting the Support Services Division Commander in coordinating Division activities.
- Assuming command of the Division during the absence of the Division Commander.

200.4.3 PERSONNEL AND TRAINING UNIT

The Personnel and Training Unit is responsible for:

- Recruitment and hiring of all Department personnel.
- Assisting in the development of appropriate policies and procedures in training programs.
- Coordinating the recruit training program.
- Developing and administering in-service training.
- Developing and coordinating physical fitness programs and activities for employees.
- Supervising and coordinating the cadet program.
- Supervising and coordinating the intern program.
- Conducting personnel applicant background investigations.

200.4.4 PLANNING AND RESEARCH UNIT

The Planning and Research Unit is responsible for:

- Gathering pertinent data for statistical analysis.
- Preparing research projects and staff studies.
- Maintaining the Department Manual.
- Maintaining departmental forms control.

200.4.5 COMMUNICATIONS SECTION

The Communications Section is responsible for:

- Processing telephonic requests for police, fire and medical assistance.

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- Dispatching and deploying responding units.
- Maintaining radio communications with all police and fire units.
- Processing requests for support and assistance by field units.
- Resolving routine business calls and public assistance requests when appropriate.

200.4.6 ALARM UNIT
The Alarm Unit is responsible for:

- Taking appropriate action to reduce false alarms.
- The maintenance and supervision of departmental alarm monitoring systems.
- Maintenance of alarm activity records.
- Processing false alarm billings in cooperation with City business and finance offices.
- Serving as a liaison between alarm companies and the Department.

200.4.7 POLICE CADETS
The purpose of the cadet program is to train young men and women for a future career in law enforcement and to further their personal and intellectual development. Cadets are responsible for:

- Performing assigned clerical duties.
- Writing reports.
- Processing business telephone calls.
- Field activities as specifically assigned.

200.4.8 FISCAL SERVICES FACILITY MANAGER
The Fiscal Services Facility Manager is responsible for:

- Coordinating the budget under the direction of the Support Services Division Commander.
- Maintenance of the entire police facility.

200.4.9 RANGEMASTER/ARMORER
The Rangemaster/Armorer is responsible for:

- The maintenance and operation of the range.
- Weapons training.
- Selection and implementation of Department weapons systems.
- Weapons maintenance and repair.
- Performing police facility maintenance as directed by the Training Supervisor.

200.5 RECORDS AND IDENTIFICATION SECTION

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200.5.1 CUSTODIAN OF RECORDS

The Records Section supervisor designated by the Support Services Division Commander shall be the Custodian of Records and shall be responsible for:

- All duties pertaining to criminal record security as imposed by statute and Department procedure.
- Responding to all Duces Tecum subpoenas.

200.5.2 RECORDS AND EVIDENCE MANAGER

The Records and Evidence Manager is responsible for:

- Exercising line command over the Records, Front Desk, Data Entry and Property Units
- Establishing and maintaining effective clerical procedures.
- Compiling a variety of statistical and financial data and preparing summary reports.
- Exercising line command over assigned Interns and Volunteers.
- Participating in personnel oral board interview process.
- Assisting in budget preparation and long-term planning.
- Conducting record audits in conjunction with the Department of Justice.
- Maintaining records retention requirements within Records and Property.
- Conducting CLETS training for all departmental personnel and maintaining training records subject to review and auditing by the Department of Justice.
- Establishing access, providing training and maintaining administrative duties for RMS, ELETE and CAL-PHOTO.
- Overseeing document imaging of case files and report distribution.
- Serving as the point of contact in all Records related matters to various City, County and Statewide agencies.
- Training of, evaluating performance, and counseling and administering discipline to assigned personnel.
- Assisting in the investigation of citizen complaints and personnel investigations.

200.5.3 RECORDS SECTION

The Records Unit is responsible for:

- Processing all crime, arrest, traffic collisions, and miscellaneous reports.
- Distribution of all reports.
- Preparing arrest reports for court.
- Preparing citations for transmittal to court, probation and Detective Division.
- Electronic input of supplemental documentation for reports, as well as citations, field interview cards and disturbance advisement cards.

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- Receiving bail as an agent of the court.
- Serving as an official repository for all crime, arrest, traffic, and miscellaneous reports.
- Making all requests to the Department of Justice for criminal record information.
- Handling all releases of criminal record information.
- Fingerprinting and processing all City applicants including volunteers, chaplains and citizen academy participants, as well as maintaining their associated records and paperwork.
- Maintaining the Private Property Tow Board and Lien Sales.
- Releasing recovered stolen, impounded and stored vehicles.
- Maintaining all record entries, modifications, locates and cancellations within the Statewide (CLETS) and Nationwide (NCIC) law enforcement telecommunication systems.
- Sending all statewide and nationwide teletype messages.
- Maintaining 24/7 operability of teleprinter.
- Vehicle repossessions.
- Processing photo requests.
- Processing outside agency report requests.
- Addressing public inquiries via phone, mail and in person.
- Conducting building security clearance checks.
- Inputting of all hand delivered, mailed or faxed subpoenas.
- Acting as liaison with Cal-ID.
- Posting and delivery of all departmental mail services.
- Inputting all NBPD warrant information into RMS.
- Reconciling the petty cash and bail drawer.
- Processing, safeguarding and disposition of property and evidence.
- Ordering and maintaining Department supplies.

200.6 PATROL/TRAFFIC DIVISION FUNCTIONS

The Patrol/Traffic Division is responsible for:

- Response to calls for services.
- Preliminary investigation of all reported crime.
- Preventive patrol.
- Control of crowds.

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- Enforcement of laws and ordinances.
- Traffic Law enforcement.
- Collision investigations.
- Investigating concerns and complaints by the public regarding traffic issues.
- Regulation of vehicular and pedestrian traffic.
- Making recommendations concerning special events that may adversely affect the City.
- Increasing the traffic awareness level of both employees and community members through traffic education programs.
- Parking Control.
- Animal Control.

200.6.1 PATROL/TRAFFIC DIVISION COMMANDER

The Patrol/Traffic Division Commander exercises line command over personnel in the Patrol and Traffic Divisions and serves as a member of the Command Staff and the Management Team.

200.6.2 WATCH COMMANDER

A Watch Commander is responsible for:

- Supervising, scheduling, planning and directing of all Patrol Division personnel during his/her assigned watch.
- Reviewing and approving reports.
- Counseling, advising, and directing citizens.
- Approving bookings.
- Training, counseling, and evaluating of assigned personnel.
- Preparing timely and appropriate reports relating to the activities of his/her watch.
- Supervising jail operations during his/her assigned watch.
- Ensuring a timely response is made to media requests regarding unscheduled events.
- Attending public and intradepartmental meetings concerning police operations.

200.6.3 TRAFFIC DIVISION LIEUTENANT

The Traffic Division Lieutenant is responsible for:

- Exercising line command over field supervisors and follow-up investigators.
- Assisting the Patrol/Traffic Division Commander in coordinating Division activities.
- Assuming command of the Division during the absence of the Division Commander.
- Supervision of the Parking Control Unit and Supervisors.

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- Supervision of the Animal Control Unit and Supervisors.

200.6.4 TRAFFIC ENFORCEMENT SECTION

The Traffic Enforcement Section is responsible for::

- Traffic law enforcement.
- Collision investigation.
- General crime suppression.
- Other duties as assigned.

200.6.5 TRAFFIC INVESTIGATIONS UNIT

The Traffic Investigation Unit is responsible for:

- Follow-up investigation of traffic collisions and collisions involving any felony offenses.
- Investigating fatal traffic collisions or collisions that result in critical injuries.
- Conducting traffic collision review boards.
- Other duties as assigned by the Traffic Division Commander, Traffic Division Lieutenant or Traffic Sergeant.

200.6.6 PARKING CONTROL UNIT

The Parking Control Unit is responsible for:

- Enforcing state and local parking regulations.
- Other duties as assigned by the Traffic Division Commander, Traffic Division Lieutenant and Parking Control Supervisor.

200.6.7 ANIMAL CONTROL UNIT

The Animal Control Unit is responsible for::

- Enforcing animal regulation laws.
- Settling complaints regarding animals.
- Impounding stray or injured animals.
- Disposing of dead animals.
- Relocating wild animals.
- Investigating cases of animal poisoning.
- Investigating incidents involving a person bitten by an animal.
- Assisting citizens in setting traps for varmints and predators.
- Investigating health violations involving animals.
- Other duties as assigned by the Traffic Division Commander, Traffic Division Lieutenant or Animal Control Supervisor.

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200.6.8 TRAFFIC COLLISION REVIEW BOARD

The Traffic Collision Review Board has the responsibility of reviewing collisions involving City employees driving City vehicles. This review shall establish, for purposes of training and discipline, whether the traffic collision was preventable or non-preventable.

200.6.9 TRAFFIC COLLISION REVIEW BOARD - COMPOSITION

The Traffic Collision Review Board shall consist of:

- A Traffic Division Supervisor;
- A Traffic Investigator;
- One sworn member of another division who has prior Traffic experience.

Note: The Patrol/Traffic Division Commander shall review all Traffic Collision Review Board decisions for thoroughness and completeness prior to distribution.

200.6.10 TRAFFIC SERGEANTS

The Traffic Sergeants are responsible for:

- Supervising line personnel and investigators.
- Conducting collision review boards.
- Auditing collision reports and citations.
- Conducting special event investigations.
- Conducting personnel investigations.
- Other duties as assigned by the Patrol/Traffic Division Commander and/or Traffic Services Commander.

200.6.11 GANG SUPPRESSION UNIT

The Gang Suppression Unit is responsible for:

- Identifying criminal street gangs and gang members.
- Assessing gang-related problems.
- Obtaining and disseminating information about gangs and trends.
- Assisting other justice agencies with the investigation and enforcement of anti-gang laws.
- Assisting the Detective Division in investigating gang-related criminal activity.
- Registering gang members per California Penal Code 186.30.

200.6.12 CRISIS NEGOTIATION TEAM

The Crisis Negotiation Team is responsible for:

- Establishing communications with suspects in hostage situations.
- Establishing communications with barricaded subjects.

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- Negotiating the release of hostages.
- Negotiating the surrender of barricaded subjects.

200.6.13 SWAT UNIT
The Special Weapons and Tactics Unit is responsible for:

- Providing special weapons and tactics support.
- Coordinating tactics of Unit members in capturing or neutralizing barricaded subjects or in the rescue of hostages.

200.6.14 POLICE RESERVE UNIT
The Police Reserve Unit provides:

- Prisoner transportation.
- Additional manpower as needed.

200.6.15 POLICE CANINE UNIT
The Police Canine Unit is responsible for providing special tactics in:

- Area searches.
- Apprehension of hidden or fleeing suspects.
- Locating narcotics.

200.6.16 EXPLORER UNIT
The Explorer Unit is affiliated with the Boys Scouts of America and is sponsored by the Newport Beach Police Department. It is a volunteer unit composed of persons between the ages of 14 and 20, inclusively. The Unit is under the control of the Patrol/Traffic Division Commander and is intended to give youth insight into a career in law enforcement and provide assistance to the Department on special events, training ans as needed.

200.6.17 CHAPLAIN UNIT
The Newport Beach Police Department has established a Police Chaplains Program for the purpose of providing assistance, care and guidance in times of need. A Newport Beach Chaplain is a resource available to all Newport Beach Department personnel, their families, and the community, on a voluntary basis. It is the purpose and policy of this department that no Police Department member, their family, or member of the community shall, by coercion, threat, promise or other means, be subjected to the teaching or tenents or any particular faith against his or her will.

200.7 DETECTIVE DIVISION FUNCTIONS
The Detective Division is responsible for:

- Conducting follow-up investigations on all reported crimes and felony arrests occurring within the city, excepting traffic investigations.

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- Preparing cases for filing consideration and presentation to the Orange County District Attorney's Office as well as other prosecuting authorities.
- Liaising with The Superior Court of California, County of Orange, Harbor Justice Center Newport Beach and The Lamoreaux Justice Center along with other courts of competent jurisdiction.
- Liaising with the Newport-Mesa School District in delivering services to city public schools for the purpose of meeting the terms of the School Resource Officer Program and the Step-Up Program.
- Coordinating with regional law enforcement task forces and supporting any assigned personnel.
- Investigating and proactively identifying and impacting crime problems in the City in support of the area policing model.
- Gathering, indexing, and disseminating city crime statistics.
- Analyzing, preparing, and disseminating information relevant to actual and anticipated criminal activity to increase the effectiveness of personnel deployment, crime prevention, and apprehension of suspects.
- Collecting, identifying, and preserving physical evidence at crime scenes.
- Apprehending wanted suspects.
- Recovering stolen property and managing found property.
- Regulating pawn, massage, and alcohol establishments within the City.
- Handling and investigating vice, narcotics, and intelligence matters as well as human trafficking/smuggling.

200.7.1 DETECTIVE DIVISION COMMANDER

The Detective Division Commander exercises line command over personnel in the Detective Division and serves as a member of the Command Staff and the Management Team.

200.7.2 DETECTIVE DIVISION LIEUTENANT

The Detective Division Lieutenant, under the general direction of the Detective Division Commander, plans, directs and supervises the daily activities within the Detective Division.

200.7.3 UNIT SUPERVISORS

The unit supervisors are responsible for:

- Supervising the detectives in their unit.
- Assigning and coordinating follow-up investigations.

200.7.4 CRIME ANALYSIS UNIT

The Crime Analysis Unit is responsible for:

- Proactively identifying crime problems in the City in support of the area policing model.

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- Gathering, indexing, and disseminating city crime statistics.
- Analyzing, preparing, and disseminating information relevant to actual and anticipated criminal activity to increase the effectiveness of personnel deployment, crime prevention, and apprehension of suspects.
- Other matters as assigned by the Detective Division Lieutenant or Detective Division Commander.

200.7.5 CRIME SCENE INVESTIGATION UNIT

The Crime Scene Investigation Unit is responsible for:

- Collecting, identifying, and preserving of physical evidence at crime scenes.
- Assisting in the preliminary investigations of major crimes and serious or fatal traffic collisions.
- Other matters as assigned by the Detective Division Lieutenant or Detective Division Commander.

200.7.6 CRIME SUPPRESSION UNIT

The Crime Suppression Unit is responsible for:

- Proactively impacting crime problems in the City in support of the area policing model.
- Identifying specific crime trends, patterns, and series in collaboration with area commanders, area sergeants, area detectives, area officers, and the Crime Analysis Unit.
- Efficiently directing enforcement efforts specifically toward identified suspects, career criminals, and other habitual offenders that live in or frequent the City.
- Monitoring individuals on probation or supervised release that live in or frequent the City.
- Apprehending wanted suspects.
- Other matters as assigned by the Detective Division Lieutenant or Detective Division Commander.

200.7.7 CRIMES AGAINST PERSONS UNIT

The Crimes Against Persons Unit is responsible for:

- Investigating crimes against persons in the City, in support of the area policing model, to include homicide, suspicious death, robbery, kidnapping, false imprisonment, extortion, evading/resisting/obstructing arrest, false personation, elder abuse (other than financial), domestic violence related crimes, stalking, criminal threats, annoying/threatening/lewd electronic communications, assault, battery, mayhem, weapons, bomb threats/explosions, arson, hazmat/chemical spills, aircraft collisions, court/restraining order violations, and missing person cases in support of the area policing model.
- Supervising the Crime Scene Investigation Unit.

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- Other cases as assigned by the Detective Division Lieutenant or Detective Division Commander.

200.7.8 PROPERTY CRIME UNIT

The Property Crimes Unit is organized into two units (Property Crimes - West and Property Crimes - East) that are each supervised by a sergeant. The Property Crime Unit is responsible for:

- Investigating property crimes in the City in support of the area policing model, to include:
  - Burglaries, thefts, prowling (not sex-related), trespass, unlawful entry, and vandalism.
  - Thefts of bicycles, motor vehicles, and water craft.
  - Fraud, embezzlement, forgery, counterfeiting, financial elder abuse, identity theft and other economic crimes involving checks, access cards, credit, real estate, investments, computers, and other digital means.
- Recovering stolen property and managing found property.
- Regulating pawn establishments in the city.
- Other cases as assigned by the Detective Division Lieutenant or Detective Division Commander.

200.7.9 SPECIAL INVESTIGATIONS UNIT

The Special Investigations Unit is responsible for:

- Investigating crimes in the City in support of the area policing model, to include narcotics and dangerous drugs as well as other vice related matters such as alcohol, gambling, bookmaking, pornography (not child related), and prostitution.
- Investigating human trafficking/smuggling.
- Investigating criminal intelligence matters.
- Regulating massage and alcohol establishments in the city.
- Coordinating with the Regional Narcotics Suppression Program and the Orange County Human Trafficking Task Force and supporting any assigned personnel.
- Supervision of the Crime Analysis Unit.
- Registering narcotic offenders per California Health and Safety Code 11590.
- Other cases and matters as assigned by the Detective Division Lieutenant or Detective Division Commander.

200.7.10 SPECIAL VICTIMS UNIT

The Special Victims Unit is responsible for:

- Investigating crimes in the City in support of the area policing model, to include crimes perpetrated against a child or juvenile or committed by a known juvenile suspect in support of the area policing model.

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- Investigating sexual assault and sex-related crimes, excepting prostitution-related crimes.
- Liaising with the Newport-Mesa School District in delivering services to city public schools for both the School Resource Officer Program and the Step Up Program.
- Coordinating with the Los Angeles Internet Crimes Against Children Task Force Program, Orange County Child Exploitation Task Force and the Orange County Regional Computer Forensics Laboratory and supporting any assigned personnel.
- Supervision of the Court Liaison Officer.
- Registering sex offenders per California Penal Code 290.
- Other cases as assigned by the Detective Division Lieutenant or Detective Division Commander.

200.7.11 COURT LIAISON OFFICER

The Court Liaison Officer is responsible for:

- Acting as a liaison on all court matters with The Superior Court of California, County of Orange, Harbor Justice Center Newport Beach and the Lamoreaux Justice Center along with other courts of competent jurisdiction on behalf of all Department personnel.
- Acting as the liaison on all court related matters with the Orange County District Attorney's Office as well as other prosecuting authorities, city attorneys, private attorneys, and outside law enforcement agencies on behalf of all Department personnel.
- Processing all department arrest and complaint packages through the Orange County District Attorney's Office as well as other prosecuting authorities.
- Auditing, distributing and fulfilling all formal discovery requests submitted to the Department.
- Overseeing criminal and civil subpoenas for all Department personnel.

200.8 COMMAND PROTOCOL

200.8.1 SUCCESSION OF COMMAND

The Chief of Police exercises command over all personnel in the Department. During planned absences the Chief of Police will designate a Division Commander to serve as the acting Chief of Police. Except when designated as above, the order of command authority in the absence or unavailability of the Chief of Police is as follows:

- Patrol/Traffic Division Commander
- Detective Division Commander
- Support Services Division Commander
- Watch Commander

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Any officer, regardless of rank, on his or her own initiative shall assume command of any situation requiring coordination or direction or when so directed by an officer of superior rank then in command. Once placed in command of an operation the officer shall remain in command until relieved by competent authority.

An officer of senior rank may take command of a situation by identifying himself or herself and communicating his intent to the officer in charge. Such assumption of command shall occur whenever the situation appears to the senior officer to be more appropriate to his/her position or beyond the control of the officer in charge.

An officer of equal or junior rank should assume command of a situation whenever the officer in command is unable to control the incident or is physically or mentally incapable of further command. The officer assuming command shall identify himself/herself and communicate his/her intent to the officer in charge.

200.8.2 UNITY OF COMMAND

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

200.8.3 ORDERS

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

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Police Facility

201.1 FACILITY SECURITY

Security of the police facility is essential and a responsibility of every employee. Personnel shall identify and report any observed security deficiencies. Building perimeter doors, with the exception of the main entrance doors, shall remain closed and locked at all times.

WATCH COMMANDER'S RESPONSIBILITIES

The Watch Commander shall have overall responsibility for facility security. The Watch Commanders normal duties during a shift shall include:

- Inspecting the facility to assure security
- Causing the correction of any identified security problems

FRONT DESK OFFICER'S RESPONSIBILITIES

The Front Desk Officer shall:

- Issue and recover security passes to all unescorted private maintenance or service personnel
- Maintain the Station Security Log [15.60]
- Prior to going off-duty at night, secure the front lobby doors

RESPONSIBILITY OF ALL EMPLOYEES

It is the responsibility of every employee to:

(a) Contact and take appropriate action when observing any person who is in a non-public area of the police facility who is:

1. Unescorted and without a security pass; or
2. Engaged in any questionable activity

(b) Contact and take appropriate action with any unfamiliar person walking or driving in the posted "Restricted" parking areas

(c) Immediately notify the Watch Commander of any situation which may be a security risk.

201.1.1 FACILITY ACCESS

POLICE FACILITY ACCESS BY THE GENERAL PUBLIC

Access to the police facility shall be provided persons wishing to conduct business with the Department. However, because of the sensitive nature of police operations, public access to the following areas is prohibited without authorization from the Watch Commander:

- Records section

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- Communications center
- Property Room
- Jail

POLICE FACILITY ACCESS BY MAINTENANCE PERSONNEL

Unescorted private maintenance personnel or vendors shall display security passes prior to entering non-public areas of the police facility.

201.2 AUDITORIUM

AUDITORIUM USAGE

The police facility auditorium and conference rooms are available for use by civic, social, professional and business associations. Use of the auditorium shall comply with the guidelines set forth in Newport Beach City Council Policy I-5.

AUDITORIUM RESTRICTIONS

The auditorium shall not be used for:

- Regularly scheduled meetings by other than Department personnel
- Personal gain or commercial enterprise
- Meetings of a partisan political nature

AUDITORIUM USE - NON-DEPARTMENTAL FUNCTION

Inquiries about using the auditorium or conference rooms for a non-departmental function shall be referred to the Office of the Chief of Police.

AUDITORIUM AND CONFERENCE ROOMS - USE BY EMPLOYEES

Employees requesting to utilize the auditorium or conference rooms shall be approved as follows:

- Auditorium - Office of the Chief of Police
- Chief's conference room - Office of the Chief of Police
- Patrol/Traffic conference room - Patrol/Traffic Division Commander's office
- Library - Support Services Division Commander's office.

201.3 POLICE FACILITY LIBRARY

The police facility library is maintained for the use and benefit of all employees. The following procedures apply to its use:

- The library shall remain unlocked 0800 - 1700 hours, Monday through Friday. During other hours admittance may be gained by contacting the Watch Commander.

Personnel wishing to check out materials shall comply with posted library procedures.

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201.4 POLICE FACILITY SLEEP CENTER

The purpose for the sleep center is to provide employees a temporary place to rest in the event that they are required to remain at work for an extended period of time. The center shall not be used routinely for sleeping between assigned shifts.

POLICE FACILITY SLEEP CENTER USAGE

- Persons seeking to use the sleep center shall notify the Watch Commander prior to their use of the center
- The male employee sleep center is located adjacent to the Juvenile Holding Facility. A male employee will notify the on-duty Custody Officer prior to use of the facility
- The female employee sleep center is located in the female employee locker room
- Professional conduct is expected at all times
- Persons using the sleep center shall be responsible for the neatness, cleanliness, and overall condition of the center
- Person using the sleep center shall replace used bedding immediately after use, turning in the used bedding to the Jail for laundering
- No personal items shall be left in the sleep center after its use
- Abuse of the sleep center may include loss of the privilege in the future
- The Sleep Center and the availability of any temporary place to rest may be discontinued at any time at the sole discretion of the department

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Departmental Directive

202.1 PURPOSE AND SCOPE

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

202.1.1 DEPARTMENTAL DIRECTIVE PROTOCOL

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

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

Any Departmental Directives issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year, followed by the number "01" For example, 09-01 signifies the first Departmental Directive for the year 2009.

202.2 RESPONSIBILITIES

202.2.1 COMMAND STAFF

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

202.2.2 CHIEF OF POLICE

The Chief of Police shall issue all Departmental Directives.

202.3 ACCEPTANCE OF DEPARTMENTAL DIRECTIVES

All employees are required to read and obtain any necessary clarification of all Departmental Directives.

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Management Assistance Programs

203.1 STATION FUND

The Station Fund includes all moneys generated by vending machines and other sources for the purpose of benefiting the members of the Department.

STATION FUND COMMITTEE

The Station Fund Committee shall be composed of the Support Services Division Commander and one other Division Commander. The committee is responsible for the maintenance and control of the Station Fund.

SUPPORT SERVICES DIVISION COMMANDER'S RESPONSIBILITIES

The Support Services Division Commander shall be accountable for:

- All withdrawals
- Maintaining a Station Fund account with the City Finance Department, which will maintain a record of funds disbursed and received
- Submitting an annual report to the Chief of Police on or before January 15th of each year

STATION FUND - DISBURSEMENTS

The procedure for Station Fund disbursements is as follows:

- Disbursements in excess of $100.00 shall have prior approval of the Station Fund Committee
- Disbursements less than $100.00 may be made by the Support Services Division Commander without prior approval of the other Committee member. However, the other Committee member shall be appraised of such disbursements as soon as practicable.
- The Fiscal Services/Facility Manager, with prior approval of the Station Fund Committee, may make withdrawals from the Fund.

203.2 STEP UP PROGRAM FUND

The Step Up Fund is funded by NAFF account funds.

STEP UP FUND COMMITTEE

The Step Up Fund Committee shall be composed of the Executive Officerand the Step Up Crime Prevention Officer. The Committee is responsible for the maintenance and control of the Step Up Fund.

EXECUTIVE OFFICER'S RESPONSIBILITY RESPONSIBILITIES

The Executive Officer:

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- Is accountable for all withdrawals
- Shall oversee the checking account in the name of the "Step Up Fund," which will be maintained by the City Finance Department, who will also maintain all records of funds disbursed and received
- Shall submit an Annual Report to the Chief of Police on or before January 15th of each year detailing expenditures

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Emergency Management Plan

204.1 PURPOSE AND SCOPE

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

204.2 ACTIVATING THE EMERGENCY PLAN

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

204.2.1 RECALL OF PERSONNEL

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

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

204.3 LOCATION OF THE PLAN

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

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Risk Management

205.1 PURPOSE AND SCOPE

Police Department employees and the City are, on occasion, exposed to the possibility of civil liability based upon acts or omissions that occur in the course of routine police activities. Newport Beach Police Department employees should, whenever possible, take reasonable and appropriate action to eliminate or minimize the risk of liability and to protect the interests of the City of Newport Beach and its employees.

205.2 PRELIMINARY CLAIMS INVESTIGATIONS

205.2.1 PURPOSE

Incidents involving Newport Beach Police Department personnel that result in serious bodily injury to another have a high potential for civil claims against the City and City employees. In anticipation of litigation, Preliminary Claims Investigations shall be conducted under the direction and with the assistance of the Office of the City Attorney.

205.2.2 PROCEDURE

(a) A Preliminary Claims Investigation shall be conducted when a person suffers a serious bodily injury as a result of a contact with Newport Beach Police Department personnel. "Serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: prolonged loss of consciousness; concussion; bone fracture, with the exception of simple fractures of fingers and toes; protracted loss or impairment of functions of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement. The Watch Commander shall:

1. Insure appropriate medical attention is rendered
2. Conduct or ensure a Preliminary Claims Investigation is immediately initiated by a supervisor of higher rank than the involved employee(s)
3. Notify the Chief of Police and Division Commander(s)

(b) The Investigating Supervisor shall at minimum, conduct a preliminary investigation that includes:

1. Completion of a pre-claims cover sheet
2. Identification of potential witness(es)
3. Verbal preliminary statements from involved employee(s)
4. When possible, conduct a tape recorded interview of the injured person (use of the Mobile Video System is permitted)
5. If circumstances permit, conduct tape recorded interviews of non-Newport Beach Police Department witness(es) (use of Mobile Video System is permitted)

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6. Retention and/or review of video and audio tapes of the incident
7. Recording of environmental conditions
8. Preservation of evidence (use or call-out of Crime Scene Investigator is permitted)
9. Sufficient photographs of injuries, evidence and locations
10. Video documentation by the Video Unit where applicable
11. Assembly of completed reports
12. Completion of an Employee's Report (NBPD 15.7) as a preliminary report of his/her investigation.

(c) The Investigating Supervisor shall ensure that the Division Commander receives the Preliminary Claims Investigation or is briefed on the information by the start of the next business day.

(d) The Division Commander shall insure the Chief of Police is notified and updated.

(e) The Chief of Police or designate shall insure the City Attorney's Office is notified.

(f) The preliminary report or circumstances should be reviewed by the Professional Standards Unit, Executive Officer, City Risk Manager and a representative from the Office of the City Attorney as soon as possible, and additional investigatory tasks discussed and assigned.

(g) Additional statements of involved employee(s) may be obtained by or at the direction of the Office of the City Attorney.

(h) A Preliminary Claims Investigation conference should be conducted upon the completion of the preliminary investigation.

205.2.3 NON-SERIOUS INJURY INVESTIGATIONS

Incidents involving property damage, minor injuries or potential claims of violation of civil rights should have a Preliminary Claims Investigation completed at the level appropriate to the nature or extent of the damage or injury. Such reports should be reviewed by the Division Commander, Executive Officer and Professional Standards Unit Lieutenant, and copies forwarded to the Risk Manager. The Office of the City Attorney should be notified when circumstances warrant.

205.3 ADMINISTRATIVE INVESTIGATION TEAM

205.3.1 ACTIVATION

Mandatory Call-Out - The Watch Commander shall request the Administrative Investigation Team in all cases of:

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- Intentional discharge of firearms by an employee of this Department (excluding range qualification, warning shots not resulting in injury, legitimate recreational activities or the dispatching of injured / dangerous animals)
- Accidental discharge of a firearm by an employee of this Department resulting in personal injury
- Use of deadly force by an employee of this Department resulting in life threatening or fatal injury to another
- In-custody death
- In-custody injury of such severity that a fatality may result

Optional Call-Out - The Watch Commander shall request the Administrative Investigation Team in other cases in which an investigation is requested by the Chief of Police.

205.3.2 DUTIES

The Administrative Investigation Team conducts or coordinates confidential investigations into major incidents. The report generated focuses on administrative concerns, such as tactics, training, and equipment, and is prepared for the City Attorney's office.

205.4 CLAIMS ASSISTANCE

Whenever any employee becomes aware of an instance in which a citizen appears to have unfairly suffered a loss (property damage, improperly towed vehicle, etc.) due to the acts or omissions of a police employee, and it is apparent that the proper course of action would be to assist the citizen in obtaining compensation, the following procedure should be followed:

- Complete an Employee's Report detailing the circumstances of the incident
- Submit the report to the reporting employee's immediate supervisor or, if unavailable, to the Patrol Division Watch Commander. The supervisor shall conduct an inquiry and determine if immediate resolution is appropriate and feasible
- As appropriate, the supervisor should complete a Preliminary Claims Investigation at the level appropriate to the nature or extent of the damage, and indicate in the report what steps were taken toward resolution and whether or not those steps were successful
- Unresolved questions regarding alleged improperly towed vehicles should be forwarded to a Traffic Division Supervisor for handling and disposition
- Forward the completed Preliminary Claims Investigation report along with any supporting documentation to the Professional Standards Unit Lieutenant for disposition

The Professional Standards Unit Lieutenant shall, upon receipt of any claims assistance information, conduct an inquiry into the circumstances of the incident and determine if the most appropriate manner of assistance has been rendered. If additional steps may be taken toward a

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fair resolution, the Professional Standards Unit Lieutenant shall insure that those steps are taken, which may include consultation with Risk Management or other City Departments.

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Training Policy

206.1 PURPOSE AND SCOPE

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

206.2 PHILOSOPHY

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

206.3 OBJECTIVES

The objectives of the Training Program are to:

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

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

(c) Provide for continued professional development of department personnel

206.4 TRAINING PLAN

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

- Legislative Changes
- State Mandated Training
- Critical Issues Training

206.5 TRAINING NEEDS ASSESSMENT

The Training Unit will conduct an annual training-needs assessment of the Department. The needs assessment will be reviewed by staff. Upon approval by the staff, the needs assessment will form the basis for the training plan for the fiscal year.

206.6 TRAINING PROCEDURES

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

1. Court appearances

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2. First choice vacation
3. Sick leave
4. Physical limitations preventing the employee's participation.
5. Emergency situations

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

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

206.7 DAILY TRAINING BULLETINS

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

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

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

The Training Manager will monitor the progress of personnel on a monthly basis, and will notify the appropriate Division Commander if personnel have not completed all DTBs in a timely manner. Supervisors will then be responsible for monitoring the progress of personnel under their command to ensure compliance with this policy.

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Administrative Communications

207.1 PURPOSE AND SCOPE

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

207.2 MEMORANDUMS

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

207.3 CORRESPONDENCE

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

207.4 SURVEYS

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

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Staffing Levels

208.1 PURPOSE AND SCOPE

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

208.2 MINIMUM STAFFING LEVELS

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

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License to Carry a Firearm

209.1 PURPOSE AND SCOPE

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

209.1.1 APPLICATION OF POLICY

The Chief of Police has entered into an agreement with the Orange County Sheriff's Department to process all applicants and licenses for the carrying of concealed weapons (Penal Code § 26155(c)). Any resident requesting a license to carry a concealed weapon will be referred to the Orange County Sheriff's Department.

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Retiree Concealed Firearms

210.1 PURPOSE AND SCOPE

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

210.2 POLICY

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

210.3 LEOSA

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

(a) Separated from service in good standing from this department as an officer.

(b) Before such separation, had regular employment as a law enforcement officer for an aggregate of 10 years or more or, if employed as a law enforcement officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this department.

(c) Has not been disqualified for reasons related to mental health.

(d) Has not entered into an agreement with this department where the officer acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.

(e) Is not prohibited by federal law from receiving or possessing a firearm.

(f) Has been tested or otherwise found by the NBPD to meet agency-established active duty standards for qualification in firearms training to carry a concealed firearm.

(g) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

210.3.1 LEOSA IDENTIFICATION CARD FORMAT

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

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

210.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE

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

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

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

210.4.1 CALIFORNIA IDENTIFICATION CARD FORMAT

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

(a) A photograph of the retiree.

(b) The retiree's name and date of birth.

(c) The date of retirement.

(d) The name and address of this department.

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

210.4.2 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION

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

(a) The retiree's previous agency is no longer providing law enforcement services or the relevant government body is dissolved.

(b) This department is in possession of the retiree's complete personnel record or can verify the retiree's honorably retired status.

(c) The retiree is in compliance with all of the requirements of this department for the issuance of a CCW Approved endorsement.

210.4.3 QUALIFIED RETIRED RESERVES

Qualified retired reserve officers who were regularly employed as a law enforcement reserve officer for an aggregate of 20 years or more shall be provided an identification card with a CCW Approved endorsement (Penal Code § 26300).

210.5 FORMER OFFICER RESPONSIBILITIES

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

210.5.1 RESPONSIBILITIES UNDER LEOSA

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

(a) Sign a waiver of liability of the Department for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private

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person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Department.

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

(c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.

(d) Complete Live Scan fingerprinting.

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

(a) Qualify annually with the authorized firearm at a course approved by this department at the retired officer's expense.

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

(c) Not engage in conduct that compromises public safety.

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

(e) Undergo a fingerprint-based state and national criminal history background check when required by the Department (Penal Code § 26330).

210.6 DENIAL, SUSPENSION, OR REVOCATION OF A LEOSA IDENTIFICATION CARD

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

210.7 H.R. 218 (LEOSA) CCW

Subject to 18 United States Code 926C and Policy Manual § 312.8, qualified retired officers of this department may be authorized to carry a concealed weapon in other states. Retired officers must qualify annually with the authorized firearm at a course approved by this department at the retired officer's expense. Upon verification by this department that all annual requirements have been met by an otherwise qualified retired officer, the department shall issue a Retired Peace Officer Compliance Certification card valid for one year (18 United States Code 926C). The department identification card described in Policy Manual § 220.5 must accompany the Retired Peace Officer Compliance Certification card.

210.8 DENIAL, SUSPENSION OR REVOCATION OF A CALIFORNIA CCW ENDORSEMENT CARD

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

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

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

1. The retiree shall have 15 days from the date of service to file a written request for a hearing.
2. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received (Penal Code § 26315).
3. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right.

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

1. The decision of such hearing board shall be binding on the Department and the retiree.
2. Any retiree who waives the right to a hearing or whose CCW endorsement has been revoked at a hearing shall immediately surrender his/her identification card. The Department will then reissue a new identification card which shall be stamped "No CCW Privilege."

(d) Members who have reason to suspect the conduct of a retiree has compromised public safety shall notify the Watch Commander as soon as practicable. The Watch Commander should promptly take appropriate steps to look into the matter and, if warranted, contact the retiree in person and advise him/her of the temporary suspension and hearing information listed below.

1. Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312).
2. The Watch Commander should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief of Police.
3. The personal and written notification should be as follows:
    (a) The retiree's CCW endorsement is immediately and temporarily suspended.
    (b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.

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(c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.

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

210.9 FIREARM QUALIFICATIONS

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

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Chapter 3 - General Operations

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Use of Force

300.1 PURPOSE AND SCOPE

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

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

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

300.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

300.2 POLICY

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

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

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The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

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

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

300.2.2 FAIR AND UNBIASED USE OF FORCE

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

300.2.3 PERSPECTIVE

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

300.2.4 FAILURE TO INTERCEDE

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

300.3 USE OF FORCE

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

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

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to

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the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

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

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

300.3.1 USE OF FORCE TO EFFECT AN ARREST

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

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

(a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).

(b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time (Penal Code § 835a).

(c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).

(d) The conduct of the involved officer leading up to the use of force (Penal Code § 835a).

(e) The effects of suspected drugs or alcohol.

(f) The individual's apparent mental state or capacity (Penal Code § 835a).

(g) The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).

(h) Proximity of weapons or dangerous improvised devices.

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(i) The degree to which the subject has been effectively restrained and their ability to resist despite being restrained.

(j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).

(k) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.

(l) Training and experience of the officer.

(m) Potential for injury to officers, suspects, bystanders, and others.

(n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.

(o) The risk and reasonably foreseeable consequences of escape.

(p) The apparent need for immediate control of the subject or a prompt resolution of the situation.

(q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.

1. Force shall be de-escalated once compliance or control is achieved (see the **ALTERNATIVE TACTICS - DE-ESCALATION** section).

(r) Prior contacts with the subject or awareness of any propensity for violence.

(s) Any other exigent circumstances.

300.3.3 COMPLIANCE TECHNIQUES

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

(a) The degree to which the application of the technique may be controlled given the level of resistance.

(b) Whether the person can comply with the direction or orders of the officer.

(c) Whether the person has been given sufficient opportunity to comply.

The application of any compliance technique shall be discontinued once the officer determines that compliance has been achieved or is deemed ineffective. Compliance techniques should not be used on individuals who are handcuffed or otherwise restrained unless the individual is actively resisting an officer, attempting to assault/assaulting an officer, or attempting to escape, and no lesser alternative is feasible.

300.3.4 RESTRICTIONS ON THE USE OF CAROTID CONTROL HOLD

Officers of this department are not authorized to use a carotid restraint hold. A carotid restraint means a vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person’s neck that involves a substantial risk of restricting

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blood flow and may render the person unconscious in order to subdue or control the person (Government Code § 7286.5).

300.3.5 USE OF FORCE TO SEIZE EVIDENCE

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

300.3.6 ALTERNATIVE TACTICS - DE-ESCALATION

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

(a) Summoning additional resources that are able to respond in a reasonably timely manner

(b) Formulating a plan with responding officers before entering an unstable situation that does not reasonably appear to require immediate intervention

(c) Employing other tactics that do not unreasonably increase officer jeopardy

In addition, when reasonable and feasible, officers shall evaluate the totality of circumstances presented at the time in each situation and, when reasonable and feasible, shall determine and utilize reasonably available de-escalation techniques, crisis intervention tactics, and other alternatives, if any, that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)).

300.3.7 RESTRICTIONS ON THE USE OF A CHOKE HOLD

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

300.3.8 ADDITIONAL RESTRICTIONS

Terms such as "positional asphyxia," "restraint asphyxia," and "excited delirium" continue to remain the subject of debate among experts and medical professionals, are not universally recognized medical conditions, and frequently involve other collateral or controlling factors such as narcotics or alcohol influence or pre-existing medical conditions. While it is impractical to restrict an officer's use of reasonable control methods when attempting to restrain a combative individual, officers are not authorized to use any restraint or transportation method which might unreasonably impair an individual's breathing or respiratory capacity for a period beyond the point when the individual has been adequately and safely controlled. Once the individual is safely secured, officers

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should promptly check and continuously monitor the individual's condition for signs of medical distress (Government Code § 7286.5).

300.3.9 WARNINGS BEFORE USE OF FORCE

Verbal warnings should precede the use of force when practical and tactically feasible.

300.4 DEADLY FORCE APPLICATIONS

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

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

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

(a) An officer may use deadly force to protect themself or others from what the officer reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.

(b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

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

Additionally, an officer shall not use deadly force against a person whose actions are a threat solely to property unless the person poses an imminent danger of death or serious physical injury to the officer or others in close proximity.

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

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective and involve considerations and risks in addition to the justification for the use of deadly force. When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their

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firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others (Government Code § 7286(b)).

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

300.4.2 OFFICER RESPONSE OPTIONS

Command Presence and Verbalization - Includes display of authority as a peace officer and such non-verbal means of communication as body language, demeanor, and manner of approaching. Verbalization involves the directions and commands given to the subject.

Restraining and Detaining - Includes an officer laying hands on a subject with the intention of gaining control of the subject. Examples include the use of a firm grip, or escort position. Also included in this level would be the application of temporary restraining devices such as handcuffs and leg restraints.

Compliance Techniques - Includes joint manipulations, pressure point applications, pain compliance techniques, take-down type techniques, grappling type of techniques designed to hold a subject down by using the weight of an officer's body, the use of control holds, and any use of physical force to overcome active resistance.

Intermediate Force - Includes the use of impact weapons in an impact mode; the use of personal weapons such as hands, feet, elbows and knees to strike a subject; and the use of aerosol subject restraint, chemical agents and the use of other less lethal devices.

Lethal Force - Includes the use of a firearm or any force, which has a reasonable likelihood of causing death or great bodily injury.

300.4.3 DISPLAYING OF FIREARMS

The pointing of a firearm is a use of force and should occur only when an officer reasonably believes that an individual poses an articulable threat. Officers should carefully evaluate each tactical situation and use sound discretion when drawing a firearm in public by considering the following guidelines (Government Code § 7286(b)):

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

(b) If the officer reasonably believes that a threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward such threat until the officer no longer perceives such threat.

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

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300.5 REPORTING THE USE OF FORCE

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

300.5.1 NOTIFICATION TO SUPERVISORS

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

(a) The application caused a visible injury.

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

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

(d) The individual indicates intent to pursue litigation.

(e) Any application of a conducted energy device or control device.

(f) Any application of a restraint device other than handcuffs, shackles, or belly chains.

(g) The individual subjected to the force was rendered unconscious.

(h) An individual was struck or kicked.

(i) An individual alleges unreasonable force was used or that any of the above has occurred.

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

300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

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

300.6 MEDICAL CONSIDERATIONS

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

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

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

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

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain, or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITY

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

(a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.

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

(c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:

1. The content of the interview should not be summarized or included in any related criminal charges.
2. The fact that a recorded interview was conducted should be documented in a property or other report.
3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.

(d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.

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

(f) Review and approve all related reports.

(g) Determine if there is any indication that the subject may pursue civil litigation.

1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.

(h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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

300.7.1 WATCH COMMANDER RESPONSIBILITY

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

300.8 TRAINING

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

300.8.1 STATE-SPECIFIC TRAINING REQUIREMENTS

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

Additionally, training should include training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

300.8.2 TRAINING REQUIREMENTS

Required annual training shall include:

(a) Legal updates.

(b) De-escalation tactics, including alternatives to force.

(c) The duty to intercede.

(d) The duty to request and/or render medical aid.

(e) Warning shots (see the Firearms Policy).

(f) All other subjects covered in this policy (e.g., use of deadly force, chokeholds and carotid holds, discharge of a firearm at or from a moving vehicle, verbal warnings).

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

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300.9 USE OF FORCE ANALYSIS

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

(a) Frequency of force use.

(b) Type(s) of force applied.

(c) Time, location, and circumstances of incidents.

(d) Policy compliance review.

(e) The identification of any trends in the use of force by members.

(f) Training needs recommendations.

(g) Equipment needs recommendations.

(h) Policy revision recommendations.

300.10 USE OF FORCE COMPLAINTS

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

300.11 POLICY REVIEW

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

300.12 POLICY AVAILABILITY

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

300.13 PUBLIC RECORDS REQUESTS

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

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Handcuffing and Restraints

305.1 PURPOSE AND SCOPE

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

305.2 POLICY

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

305.3 USE OF RESTRAINTS

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

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

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

305.3.1 RESTRAINT OF DETAINEES

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

305.3.2 RESTRAINT OF PREGNANT PERSONS

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

No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances, and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the detainee, officers, or others

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(Penal Code § 3407; Penal Code § 6030). See the Transporting Persons in Custody Policy for guidelines relating to transporting pregnant persons.

305.3.3 RESTRAINT OF JUVENILES

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

305.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

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

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

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

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

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

305.5 APPLICATION OF SPIT HOODS

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

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

Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and so that the restrained person can breathe normally. Officers should provide assistance during the movement of a restrained person due to the potential for impairing or distorting that person's vision. Officers should avoid comingling those wearing spit hoods with other detainees.

Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed

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and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated, including hair, head, and clothing, prior to application of a spit hood.

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

305.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

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

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

305.7 APPLICATION OF LEG RESTRAINT DEVICES

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

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

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

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

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

305.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

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

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

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

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

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

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

305.8 REQUIRED DOCUMENTATION

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

If a person is arrested, the use of restraints other than handcuffs shall be documented in the related report. The officer should include, as appropriate:

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

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

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

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

305.9 TRAINING

The Training Manager should ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

(a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Department.

(b) Response to complaints of pain by restrained persons.

(c) Options for restraining those who may be pregnant without the use of leg restraints, waist chains, or handcuffs behind the body.

(d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

(e) Proper placement of safely secured persons into an upright or seated position to avoid placement on the stomach for an extended period, as this could reduce the person's ability to breathe.

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Control Devices and Techniques

307.1 PURPOSE AND SCOPE

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

307.2 POLICY

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

307.3 ISSUING, CARRYING AND USING CONTROL DEVICES

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

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

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

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

307.4 RESPONSIBILITIES

307.4.1 WATCH COMMANDER RESPONSIBILITIES

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

307.4.2 INSTRUCTOR RESPONSIBILITIES

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

Every control device will be periodically inspected by the appropriateRangemaster for that particular control device. The inspection shall be documented.

307.4.3 USER RESPONSIBILITIES

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

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Rangemaster for

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disposition. Damage to City property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

307.5 BATON GUIDELINES

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

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

307.6 TEAR GAS GUIDELINES

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

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

307.7 OLEORESIN CAPSICUM (OC) GUIDELINES

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

307.7.1 OC SPRAY

Uniformed field personnel may carry the oleoresin capsicum spray device in its holster on the equipment belt or secured in the driver's compartment of the officer's vehicle so that it is readily accessible at all times. Plainclothes and non-field personnel may carry the oleoresin capsicum spray as authorized, consistent with the needs of their assignment or at the direction of their supervisor.

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

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

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307.7.2 PEPPER PROJECTILE SYSTEMS

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

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

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

Only personnel certified as having completed department-approved training on the use of pepper projectile systems shall be allowed to deploy and use pepper projectile systems.

307.7.3 TREATMENT FOR OC SPRAY EXPOSURE

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

307.8 POST-APPLICATION NOTICE

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

307.9 KINETIC ENERGY PROJECTILE GUIDELINES

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

307.9.1 DEPLOYMENT AND USE

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

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Officers , who have completed departmental training or other approved kinetic munition course may carry and employ 12 gauge or 37/40 mm projectiles while on duty .

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

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

(a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.

(b) The suspect has made credible threats to harm him/herself or others.

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

(d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

307.9.2 DEPLOYMENT CONSIDERATIONS

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

(a) Distance and angle to target.

(b) Type of munitions employed.

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

(d) The subject's proximity to others.

(e) The location of the subject.

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

(g) Severity of the crime or incident.

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

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

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

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

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

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

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

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

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

307.9.3 SAFETY PROCEDURES

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

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

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

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

307.10 TRAINING FOR CONTROL DEVICES

The Training Manager shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary. The Rangemaster shall control the inventory and shall issue all control devices. All damaged, inoperative and/or expended control devices shall be returned to the Rangemaster for disposition, repair or replacement.

(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.

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

307.11 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

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

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Conducted Energy Device

308.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the conducted energy device (CED).

308.2 POLICY

The CED is used in an attempt to control a violent or potentially violent individual. The appropriate use of such a device may result in fewer serious injuries to officers and suspects.

308.3 ISSUANCE AND CARRYING CEDS

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

The Rangemaster should keep a log of issued CED devices and the serial numbers of cartridges/magazines issued to members.

CEDs 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 inventory.

Officers shall only use the CED and cartridges/magazines that have been issued by the Department. Cartridges/magazines should not be used after the manufacturer's expiration date.

Uniformed officers who have been issued the CED shall wear the device in an approved holster.

Officers who carry the CED while in uniform shall carry it in a holster on the side opposite the duty weapon (Penal Code § 13660).

(a) All CEDs shall be clearly distinguishable to differentiate them from the duty weapon and any other device.

(b) For single-shot devices, whenever practicable, officers should carry an additional cartridge on their person when carrying the CED.

(c) Officers should not hold a firearm and the CED at the same time.

Non-uniformed officers may secure the CED in a concealed, secure location in the driver's compartment of their vehicles.

308.3.1 USER RESPONSIBILITIES

Officers shall be responsible for ensuring that the issued CED is properly maintained and in good working order. This includes a function test and battery life monitoring, as required by the manufacturer, and should be completed prior to the beginning of the officer's shift.

CEDs that are damaged or inoperative, or cartridges/magazines that are expired or damaged, shall be returned to the Rangemaster for disposition. Officers shall submit documentation stating the reason for the return and how the CED or cartridge/magazine was damaged or became inoperative, if known.

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308.4 VERBAL AND VISUAL WARNINGS

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

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

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

If, after a verbal warning, an individual fails to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, activate any warning on the device, which may include display of the electrical arc, an audible warning, or the laser in a further attempt to gain compliance prior to the application of the CED. The laser should not be intentionally directed into anyone's eyes.

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

308.5 USE OF THE CED

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

If sufficient personnel are available and can be safely assigned, an officer designated as lethal cover for any officer deploying a CED may be considered for officer safety.

308.5.1 APPLICATION OF THE CED

The CED may be used, when the circumstances reasonably perceived by the officer at the time indicate that such application reasonably appears necessary to control a person who:

(a) Is violent or is physically resisting.

(b) Has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, themself, or others.

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

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

308.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

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

(a) Individuals who are known to be pregnant.

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(b) Elderly individuals or obvious juveniles.

(c) Individuals with obviously low body mass.

(d) Individuals who are handcuffed or otherwise restrained.

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

(f) Individuals whose position or activity is likely to result in collateral injury (e.g., falls from height, located in water, operating vehicles).

Any CED capable of being applied in the drive-stun mode (i.e., direct contact without probes as a primary form of pain compliance) should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

308.5.3 TARGETING CONSIDERATIONS

Recognizing that the dynamics of a situation and movement of the subject may affect target placement of probes, when practicable, officers should attempt to target the back, lower center mass, and upper legs of the subject, and avoid intentionally targeting the head, neck, area of the heart, or genitals. If circumstances result in one or more probes inadvertently striking an area outside of the preferred target zones, the individual should be closely monitored until examined by paramedics or other medical personnel.

308.5.4 MULTIPLE APPLICATIONS OF THE CED

Once an officer has successfully deployed two probes on the subject, the officer should continually assess the subject to determine if additional probe deployments or cycles reasonably appear necessary. Additional factors officers may consider include but are not limited to:

(a) Whether it is reasonable to believe that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

(b) Whether the probes are making proper contact.

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

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

308.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers should take appropriate actions to control and restrain the individual as soon as reasonably practicable to minimize the need for longer or multiple exposures to the CED. As soon as practicable, officers shall notify a supervisor any time the CED has been discharged. If needed for evidentiary purposes, the expended cartridge, along with any probes and wire, should be submitted into evidence (including confetti tags, when equipped on the device). The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

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308.5.6 DANGEROUS ANIMALS
The CED may be deployed against an animal if the animal reasonably appears to pose an imminent threat to human safety.

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

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

308.6 DOCUMENTATION

Officers shall document all CED discharges in the related arrest/crime reports and the CED report forms. Photographs should be taken of any obvious probe impact or drive-stun application sites and attached to the CED report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, audible warning, laser activation, and arcing the device, other than for testing purposes, will also be documented on the report form. Data downloads from the CED after use on a subject should be done as soon as practicable using a department-approved process to preserve the data.

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

(a) Identification of all personnel firing CEDs

(b) Identification of all witnesses

(c) Medical care provided to the subject

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

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

308.7 MEDICAL TREATMENT

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

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

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

(b) The person may be pregnant.

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

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

(e) The person requests medical treatment.

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

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the CED (see the Medical Aid and Response Policy).

308.8 SUPERVISOR RESPONSIBILITIES

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

A supervisor should review each incident where a person has been exposed to a CED. The device's internal logs should be downloaded by a supervisor or Rangemaster and saved with the related arrest/crime report. The supervisor should arrange for photographs of probe sites to be taken and witnesses to be interviewed.

308.9 TRAINING

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

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

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

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

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

Application of CEDs during training could result in injuries and should not be mandatory for certification.

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The Training Manager should include the following training:

(a) A review of this policy.

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

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

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

(e) Scenario-based training, including virtual reality training when available.

(f) Handcuffing a subject during the application of the CED and transitioning to other force options.

(g) De-escalation techniques.

(h) Restraint techniques that do not impair respiration following the application of the CED.

(i) Proper use of cover and concealment during deployment of the CED for purposes of officer safety.

(j) Proper tactics and techniques related to multiple applications of CEDs.

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Officer-Involved Shooting

309.1 PURPOSE AND SCOPE

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

309.2 INVESTIGATION RESPONSIBILITY

This department conforms to the OIS Protocol for investigating officer-involved shootings.

309.3 TYPES OF INVESTIGATIONS

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

(a) A criminal investigation of any suspect(s) by the agency having jurisdiction where the incident occurred. This department may relinquish its criminal investigation to an outside agency with the approval of the Chief of Police or a Division Commander

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

(c) A civil investigation to determine potential liability conducted by the involved officer's agency

(d) An administrative investigation conducted by the involved officer's agency, to determine if there were any violations of department policy

309.4 JURISDICTION

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

309.4.1 NEWPORT BEACH POLICE DEPARTMENT OFFICER WITHIN THIS JURISDICTION

The Newport Beach Police Department is responsible for the criminal investigation of the suspect's actions, the civil investigation, and the administrative investigation. The criminal investigation of the officer(s) will be conducted by the District Attorney's Office.

309.4.2 ALLIED AGENCY'S OFFICER WITHIN THIS JURISDICTION

The Newport Beach Police Department is responsible for the criminal investigation of the suspect's actions. The criminal investigation of the officer-involved shooting will be conducted by the District Attorney's Office. The officer's employing agency will be responsible for any civil and/or administrative investigation(s).

309.4.3 NEWPORT BEACH POLICE DEPARTMENT OFFICER IN ANOTHER JURISDICTION

The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the suspect(s) to another agency. The Newport Beach Police Department will conduct timely civil and/or administrative investigations.

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309.4.4 INVESTIGATION RESPONSIBILITY MATRIX

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

	Criminal Investigation of Suspect(s)	**Criminal Investigation of Officer(s)**	**Civil Investigation**	**Administrative Investigation**
NBPD Officer in This Jurisdiction	NBPD Investigators	District Attorney's Office	NBPD Civil Liability Team	NBPD Professional Standards Unit
Allied Agency's Officer in This Jurisdiction	NBPD Investigators	District Attorney's Office	Involved Officer's Department	Involved Officer's Department
NBPD Officer in Another Jurisdiction	Agency where incident occurred	Decision made by agency where incident occurred	NBPD Civil Liability Team	NBPD Professional Standards Unit

309.5 THE INVESTIGATION PROCESS

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

309.5.1 DUTIES OF INITIAL ON SCENE SUPERVISOR

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

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

1. Officer Injured: If possible, an officer shall be assigned to accompany the injured officer to the hospital. A Lieutenant or Sergeant from the injured officer's division shall be dispatched to the hospital to act as a liaison between medical personnel and the Department. This supervisor is responsible for the injured officer's and the Department's property (e.g. gun) and providing security for the officer. Property taken from the officer shall be considered evidence until released by the assigned investigator.

2. Suspect or Other Party Injured: If possible, an officer shall accompany the suspect or other injured party to the hospital. The officer is to secure and maintain custody of the suspect until properly relieved. The officer shall secure all the suspect's clothing and property. Property taken from the suspect shall be considered evidence until released by the assigned investigator.

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

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

(c) If necessary, the supervisor may administratively order any officer from this department to immediately provide publicsafetyinformation necessary to secure the scene and pursue suspects.

1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses and similar information.

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

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

(f) Take command of and secure the incident scene with additional personnel until relieved by a detective supervisor or other assigned personnel. A coordinated effort to apprehend any outstanding suspect(s) should be immediately initiated. Issues to consider:

1. Establish a large perimeter
2. Initiate a crime scene log. Authorized entry into the crime scene shall be limited to assigned investigating personnel via a designated point
3. A Command Post may be established

(g) Coordinate efforts to identify all witnesses, sworn and civilian. Civilians should be asked to remain at the scene to be interviewed by investigators or be voluntarily transported to the Department to be interviewed. Any statements should be recorded.

(h) As soon as practical, shooter officers should respond or be transported (separately, if feasible) to the station for further direction.

1. Each involved officer should be given an administrative order not to discuss the incident with other involved officers pending further direction from a supervisor.
2. When an officer's weapon is taken or left at the scene (e.g., evidence), the officer will be provided with a comparable replacement weapon or be transported to the station by other officers. **Do not reload or unload the involved officer's handgun except in an emergency.**

309.5.2 WATCH COMMANDER DUTIES

Upon learning of an officer-involved shooting, the Watch Commander shall be responsible for coordinating all aspects of the incident until relieved by the Chief of Police, a Division Commander or the assigned Incident Commander.

309.5.3 NOTIFICATIONS

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

- Chief of Police
- Detective Division Commander
- District Attorney OIS rollout team
- Administrative Investigation Team
- Peer Support Team
- Coroner (if necessary)
- Officer representative (if requested)

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- Police Management Association and/or Police Employees Association

All outside inquiries about the incident shall be directed to the Press Information Officer or Watch Commander.

309.5.4 MEDIA RELATIONS

A single press release shall be prepared with input and concurrence from the supervisor and agency representative responsible for each phase of the investigation. This release will be available to the Watch Commander, Detective Division Commander and Press Information Officer in the event of inquiries from the media.

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

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

309.5.5 INVOLVED OFFICERS

Once the involved officer(s) have arrived at the station, the Watch Commander should admonish each officer that the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved officer:

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

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

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

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

    1. Interviews with a licensed psychotherapist will be considered privileged and will not be disclosed except to the extent that the officer is or is not fit for return to duty.

    2. An interview or session with a licensed psychotherapist may take place prior to the involved officer providing a formal interview or report, but the involved officers shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.

    3. The Department reserves the right to administratively compel any officer present or involved to attend an interview with a licensed psychotherapist on a case-by-case basis.

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

Care should be taken to preserve the integrity of any physical evidence present on the officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

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

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

309.6 THE SHOOTING INCIDENT CRIMINAL INVESTIGATION

309.6.1 DETECTIVE PERSONNEL

Once notified of an officer-involved shooting, it shall be the responsibility of the Detective Division supervisor to assign appropriate detective personnel to handle the investigation of related crimes. Detectives will be assigned to work with investigators from the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office.

All related departmental reports except administrative and/or privileged reports will be forwarded to the designated detective supervisor for approval. Privileged reports shall be maintained exclusively by those personnel authorized such access. Administrative reports will be forwarded to the appropriate Division Commander.

309.6.2 CRIMINAL INVESTIGATION

It shall be the policy of this department to utilize the District Attorney's Office to conduct an independent criminal investigation into the circumstances of any officer-involved shooting involving injury or death.

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

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

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

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

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investigators. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

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

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

309.6.3 REPORTS BY INVOLVED OFFICERS

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

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

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

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

309.6.4 WITNESS IDENTIFICATION AND INTERVIEWS

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

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

1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to their departure.

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

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

(c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident. (See the **INTERVIEWS OF IMMEDIATE FAMILY** subsection for additional guidance.)

309.6.5 INTERVIEWS OF IMMEDIATE FAMILY

Prior to initiating a formal interview with an immediate family member of a person killed or seriously injured by an officer or upon confirming the relationship of a person as an immediate family member, an officer or the department-assigned investigator shall (Government Code § 7287):

(a) Clearly identify themselves by providing their full name and the full name of the police department. If the interview takes place in person, a business card, official badge, or other form of official identification shall be displayed.

(b) Inform the person of the status of their family member, if known, including whether the family member has been killed or seriously injured by law enforcement.

(c) Inform the person that the formal interview is being conducted for the purposes of an investigation that may or may not involve an assessment of the conduct of the person who was killed or injured.

(d) Inform the person that they can have a trusted support person with them during the formal interview. If the family member is asked to go to the Newport Beach Police Department for a formal interview, inform the family member that they have a choice to come to the Newport Beach Police Department and can have a trusted support person with them.

Threats or deception, including knowingly using false information, fabricated evidence, or misleading statements, shall not be employed to coerce an interview or when conducting any interview.

Formal interview requirements are exempt when an officer believes that the delay of the interview would result in the loss or destruction of evidence or pose an imminent threat to public safety, or if the immediate family member has received advisements substantially equivalent to those required by this policy section or has received *Miranda* advisements.

For purposes of this section, the term "formal interview" is an interview conducted in person or via secure remote communication, including but not limited to video or audio conferencing, designed to elicit specific material information about an incident and documented through written, audio, or video records.

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309.7 ADMINISTRATIVE INVESTIGATION

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

(a) Any officer involved in a shooting may be administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.

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

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

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

1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer'(s) physical and psychological needs have been addressed before commencing the interview.

2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview (Government Code § 3303(i)). However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

3. Administrative interview(s) should be recorded by the investigator (the officer may also record the interview) (Government Code § 3303(g)).

4. The officer shall be informed of all constitutional *Miranda* rights (Government Code § 3303(h)) and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions (Government Code § 3303(e)). The officer shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (The *Lybarger* or *Garrity* admonishment).

5. The administrative interview shall be considered part of the officer's confidential personnel file.

6. The Professional Standards Unit shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.

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7. The completed administrative investigation shall be submitted to the Use of Deadly Force Review Board, which will restrict its findings as to whether there was compliance with the Department use of deadly force policy.
8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

309.7.1 CIVIL LIABILITY RESPONSE

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

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

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Firearms

311.1 PURPOSE AND SCOPE

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

311.2 AUTHORIZED WEAPONS, AMMUNITION AND RELATED EQUIPMENT

Sworn officers shall only use firearms or other weapons that are issued or approved by the Department and have been thoroughly inspected by the Rangemaster. Except in an emergency or as directed by a supervisor, a sworn officer who has not successfully qualified with a firearm or other weapon shall not carry it.

All firearms or other weapons not provided by the Department or otherwise authorized elsewhere in Department policy, including edged weapons, conducted energy and control devices, or weapons prohibited or restricted by law, may not be carried by any employee of this Department in the performance of their official duties without the express written authorization of their Division Commander. This exclusion does not apply to the carrying of a single folding pocketknife otherwise not prohibited by law.

311.2.1 DUTY HANDGUNS

UNIFORMED FIELD DUTY

Handguns carried by sworn officers assigned to uniform field duty shall conform to the following specifications:

DEPARTMENT-OWNED HANDGUNS:

The Department-owned standard issue duty handgun for sworn officers is either a GLOCK Model 17 or a GLOCK Model 19 depending upon their preference with the following specifications:

GLOCK Models 17 or 19 (9X19mm):

- GLOCK Model 17 with a 4.5-inch barrel or GLOCK Model 19 with a 4.0-inch barrel.
- Black GLOCK factory finish (Nitride (nDLC) or Tenifer).
- Unmodified internal GLOCK factory parts to include the barrel and recoil spring.
- Unmodified GLOCK factory trigger with a pull of approximately 5.5-6.5 lbs.
- No ornamentation or modification of the grips other than the use of the GLOCK Modular Backstrap System (MBS)
- Unmodified GLOCK factory sights except as Department-approved.
- GLOCK Modular Optic System (MOS): Side mounted reflex or holographic sight as Department-approved.

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- Optional: Frame mounted tactical light as Department-approved.
- Unmodified GLOCK factory magazines with a capacity of seventeen (17) rounds for the Model 17. Unmodified GLOCK factory magazines with a capacity of fifteen (15) rounds for Model 19.

SWORN OFFICER-OWNED HANDGUNS:

Officer may purchase and deploy a personally owned semi-automatic firearm as described. Officers need to have completed the field training program and be off probation. The Chief of Police or his/her designee can authorize probationary employees on a case by case basis. The firearm may be chambered in 9X19mm parabellum, .40 or .45 caliber, double action, or safe action, and manufactured by any of the following manufacturers: Beretta, FNH, Glock, Heckler & Koch, Ruger, Sig Sauer. Smith and Wesson, Springfield Armory, or Walther. Other Weapons may be considered at the discretion of the Chief of Police after consideration with the department Rangemaster.

Members of this department may carry the approved alternative firearm in the 9X19 mm parabellum,.40 or.45 calibers for assignments while on-duty or off-duty if they comply with the following requirements:

(a) The firearm shall be purchased and maintained at the officer's own expense. All repairs as well as an annual inspection, shall be completed by a manufacturer approved armorer. Proof of inspection must be provided to the Rangemaster annually.

(b) Duty ammunition must comply with the Ammunition section of this policy.

(c) The firearm, holster, magazines, magazine pouch and any necessary accessories shall be purchased at the officer's own expense and must be approved by the Chief of Police or their designee.

(d) The weapon must be registered to the officer intending to carry through the Department of Justice.

(e) Officers will be issued a department Glock 17/19 that can be utilized in the event their personally owned weapon is taken out of service for maintenance or an investigation. Officers will maintain yearly competency with the department issued Glock along with making the weapon available every 2 months for inventory purposes.

(f) Any officer who carries a personally-owned handgun for on-duty purposes as permitted by this policy, as a condition of carrying the weapon expressly agrees to surrender the weapon to any supervisor for the purposes of conducting an investigation or inspection.

(g) Any officer who elects to carry their non-departmentally-issued alternate approved handgun as their duty weapon shall complete a memo requesting the weapon's authorization and submit it to the range staff where it will be kept for documentation.

(h) Unless in an emergency or otherwise directed by a supervisor, eligible sworn personnel carrying the department-issued or authorized alternative handgun shall successfully demonstrate proficiency with the weapon to the satisfaction of the Rangemaster prior to field use.

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(i) All personally owned and department issued weapons carried by uniform personnel shall have a Red dot sight. Red dote sights will be of good quality and shall be approved by the range staff prior to use (e.g. Trijicon, RMR, Leupold, Vortex, Sig Sauer, Aimpoint, or other approved). Any officer using a red dot sight on their duty handgun must have back up iron sights. Authorization to utilize the sight while on duty will only be granted upon successful completion of the training and demonstration of proficiency to the satisfaction of the range staff.

(j) Officers will be responsible for the purchase of all equipment and gunsmithing required. All equipment and gunsmithing must be approved by range staff. Refer to 311.2.5 for further gunsmithing and modifications.

- PLAIN-CLOTHES DUTY

Handguns carried by sworn officers assigned to plain clothes duty shall conform to the specifications listed for uniformed field duty. Under limited circumstances, an authorized secondary handgun may be approved for carrying as an on-duty primary handgun depending upon assignment as determined by the Chief of Police on a case-by-case basis. Officers requesting to carry an alternate handgun shall complete a request to their direct supervisor which will be forwarded through the chain of command.

311.2.2 REFLEX AND HOLOGRAPHIC SIGHTS

All department issued and personally owned firearms utilized for uniform carry shall be equipped with a Red Dot sight. For example, the Department-issued semi-automatic pistol has the GLOCK Modular Optic System (MOS) and the Trijicon RMR. All Officers must complete the NBPD Pistol Red-dot transition course. Authorization to utilize the reflex sight will only be granted upon successful completion of the training and demonstration of proficiency to the satisfaction of the range staff.

The department issued reflex sight is the Trijicon RMR type 2 with Trijicon back up iron sights. Department issued reflex sights may not be affixed to personally owned firearms. Employee-purchased reflex sights will be of good quality and shall be approved by the range staff prior to duty use (e.g. Trijicon RMR, Leupold, Aimpoint, Vortex, Sig Sauer, or other approved). Any department or Officer owned duty handgun equipped with a reflex sight must also have department-approved back up iron sights installed.

Officers that choose to carry a personal reflex sight will be responsible for the purchase of all equipment and any gunsmithing required (Refer to 311.2.5 for guidelines on gunsmithing and modifications). The reflex sight may be installed by a certified gunsmith but must be inspected and approved by the Rangemaster prior to field use. The inspection will ensure the reflex sight and back up sights are properly installed, zeroed, and documented.

HANDGUN HOLSTERS-MAGAZINES

Handgun holsters carried by uniformed sworn officers shall be Department-issued or Department-authorized (for sworn officer-purchased handgun holsters). All holsters must be approved by the Rangemaster and cannot have a retention level lower than 2. This is a handgun holster which

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utilizes both frictions and one (1) active locking mechanism, that must be defeated by the user in order to successfully remove the handgun from the holster. The removal of the firearm shall only be accomplished after the factory locking system is deactivated.

Officers choosing to carry a department GLOCK 9mm handgun will be issued three 17 round magazines. Officers choosing to carry a GLOCK 19 will be issued 17 round magazines to assure field interoperability. Officers will carry a minimum of 51 rounds no matter the make and model of their firearm. If the Officer chooses to carry extra magazines while on duty, they will need to personally purchase factory magazines. No Officer will be permitted to carry a magazine that exceeds 21 rounds. Those carrying personally owned weapons will only be permitted to carry the designated manufacturer's magazines. Absent exigent circumstances, Officers are only permitted to carry a total of 4 handgun magazines on their person, including the magazine in their firearm. If an officer desires to expand the round count of their department or personally owned magazines, they must do so through the Rangemaster. The Rangemaster will install and inspect such extensions to ensure proper function.

311.2.3 TACTICAL LIGHTS

Tactical lights installed on duty handguns shall be Department-issued or Department-authorized. Except in an approved training situation, an officer may only activate or utilize a weapon mounted light when the officer would otherwise be justified in pointing a weapon at an individual or other authorized target. A weapon mounted light (attached to a weapon) shall not be used as a primary source of light for routine contacts or procedures.

311.2.4 AUTHORIZED SECONDARY HANDGUNS

Sworn officers desiring to carry a secondary handgun on- or off-duty are subject to the following requirements:

(a) Semi-automatic pistols shall conform to the specifications listed for uniformed field duty or authorized off-duty handguns.

(b) Revolvers shall conform to the specifications listed for authorized off-duty handguns.

(c) The purchase of the secondary handgun shall be the responsibility of the sworn officer.

(d) The secondary handgun shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever deemed necessary. A complete description of the secondary handgun shall be contained on the qualification record approved by the Rangemaster. The Rangemaster shall note the make, model, color, serial number, and caliber of the secondary handgun.

(e) Sworn officers shall successfully qualify with the secondary handgun prior to carrying it on- or off-duty.

(f) Ammunition shall be Department-issued or Department-authorized.

(g) Only one secondary handgun may be carried at a time.

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(h) The secondary handgun shall be carried in a safe manner and out-of-sight at all times, and in such a manner as to prevent accidental cocking, discharge, or loss of physical control.

311.2.5 HANDGUN MODIFICATIONS

Due to the uniqueness of each firearm listed above, there may be instances that modifications may assist in a shooters improvement and overall performance. Additionally, these modifications will develop a shooters confidence due to the fact their firearm is tailored to their specific needs. These modifications can be factory grip module modification, replacement of factory triggers, and replacement of certain functioning parts such as the slide stop, and magazine release. These parts must be authorized, inspected, and installed by the Rangemaster. In the event the Rangemaster is not an authorized gunsmith for a particular manufacturer, installation may be performed by the factory or the factory's designee.

The exchange of triggers and fire control systems shall be authorized by the Rangemaster. These devices cannot alter the function of the weapon in any way from factory specifications. The device must maintain the handgun's factory intended trigger pull weight, trigger reset, integrated factory safety devices and overall functionality. Under no circumstances will non-authorized alterations be allowed on department or personally owned weapons and in limited cases by the Rangemaster. Examples of non-authorized alterations would be aftermarket porting of slides and barrels, stippling of frames, installation of non-factory barrels (threaded) compensators, and non-factory ornamentation. The application of grip tape material and stippling to the grip of sworn officer-owned weapons are authorized as long as it does not interfere with the integrity of the weapon. Any repairs or modifications to sworn officer-owned weapons carried on- or off-duty shall be done at his or her own expense and must be approved by the Rangemaster.

311.2.6 AUTHORIZED OFF-DUTY HANDGUNS

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

(a) Semi-automatic pistols and double-action revolvers of minimum four (4) shot capacity and a barrel length of two (2) to six (6) inches, and of the following calibers, are approved for off-duty use:

1. 5.7x28mm
2. .380 Auto
3. .38 Special
4. .357 Magnum
5. 9x19mm
6. .45 Auto
7. 10mm

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8. .40 S&W
9. .45 Colt

(b) Sworn officers are responsible for purchasing any off-duty handgun they wish to carry.

(c) The off-duty handgun shall be of good quality and workmanship as determined by the Rangemaster.

(d) The off-duty handgun shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever deemed necessary. A complete description of the off-duty handgun shall be contained on the qualification record approved by the Rangemaster. The Rangemaster shall note the make, model, color, serial number, and caliber of the off-duty handgun.

(e) The off-duty handgun shall be carried in a safe manner and out-of-sight at all times, and in such a manner as to prevent accidental cocking, discharge, or loss of physical control.

(f) Sworn officers shall demonstrate to the Rangemaster that they are proficient in handling the off-duty handgun and that it will be carried in a safe manner prior to carrying it.

(g) The sworn officer shall qualify with the off-duty handgun prior to it being carried.

(h) If any sworn officer desires to use more than one handgun while off-duty, they may do so, as long as the sworn officer meets all the requirements set forth in this policy for each handgun used. No more than two handguns may be carried concealed off-duty.

(i) Sworn officers shall supply their own Department-authorized duty ammunition for off-duty handguns they carry and shall provide their own Department-authorized range ammunition for qualification purposes if the Department does not maintain an ammunition inventory of that handgun caliber.

(j) Sworn officers shall carry their badge and Department identification when carrying an off-duty handgun.

311.2.7 AMMUNITION

Only Department-authorized duty ammunition shall be carried whether on-duty or off-duty. The Rangemaster will issue duty ammunition for firearms carried on-duty.

(a) All Department-issued duty ammunition should be replaced with new ammunition every two years.

311.2.8 ALCOHOL AND DRUGS

Any sworn officer who has consumed an amount of an alcoholic beverage or taken any drug that would tend to adversely affect the sworn officer's senses or judgment shall not carry weapons.

311.2.9 DUTY SHOTGUNS

Shotguns carried by sworn officers assigned to uniformed field duty or plain-clothes duty shall conform to the following specifications:

DEPARTMENT-OWNED SHOTGUNS

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The Department-owned standard issue duty shotgun for sworn officers is a Remington Model 870, 12 gauge, with a 14-, 18- or 20-inch barrel.

(a) Sworn officers may be issued a duty shotgun depending upon their assignment.

311.2.10 DUTY RIFLES

Rifles carried by sworn officers assigned to uniformed field duty or plain-clothes duty shall conform to the following specifications:

DEPARTMENT-OWNED RIFLES

The Department-owned standard issue duty rifle for sworn officers is either a Ruger Model 8587, 5.56 NATO, with a 10.5-inch barrel or a Stag Arms Model Stag 15, 5.56 NATO, with a 10.5-inch barrel.

(a) Sworn officers may be issued a duty rifle depending upon their assignment.

SWORN OFFICER-OWNED RIFLES

See Policy 432 – Sworn Officer-Owned Rifles for further details on sworn officer-owned rifles authorized to be carried on-duty, at the option of the sworn officer.

311.2.11 INVENTORY TRACKING OF DEPARTMENT-OWNED WEAPONS

The Rangemaster is authorized to equip Department-owned firearms and less lethal weapons with RFID passive asset identification technology for the purposes of tracking inventory and facilitating sign in for range qualification. Employees shall not tamper, alter, disable, or remove an affixed RFID tag from a Department-owned weapon. Employees shall immediately notify the Rangemaster if an RFID tag on an assigned Department-owned weapon is missing or not functioning.

311.3 SAFETY CONSIDERATIONS FOR FIREARMS

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

(b) Handguns shall be unholstered only at the Department Range; the sworn officer's locker or desk; the jail entrance; or for supervisory firearms inspection.

(c) When firearms enter the Department Range:

1. Semi-automatic pistols shall have chambers empty, magazines removed, and actions open;
2. Revolvers shall be unloaded with cylinders open;
3. Shotguns shall have the chambers and magazines empty and actions open; and
4. Rifles shall have the chambers empty, actions open, and magazines removed.

(d) Sworn officers shall be governed by all rules and regulations pertaining to the use of the Department Range and shall obey all orders issued by the Rangemaster. Sworn officers shall not practice drawing or dry fire on Department premises except under Rangemaster or qualified instructor supervision.

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(e) Sworn officers shall not load or unload a weapon on Department premises except when utilizing a clearing barrel.

(f) Firearms removed from vehicles in the Department parking lot shall be loaded and unloaded using a clearing barrel.

(g) Sworn officers shall not place or store any firearm or other weapon on Department premises except where the place of storage is locked. No one shall carry firearms into the jail or any part thereof when securing or processing a prisoner, but shall place all firearms or other weapons in a secured location. It shall be the responsibility of the releasing officer to make sure that persons from outside agencies do not enter the jail or any part thereof with any firearm or other weapon.

(h) Any weapon authorized by the Department to be carried on- or off-duty that is found by the sworn officer to be malfunctioning or needing service shall not be carried; it shall be promptly presented to the Department or Rangemaster for inspection.

1. Any weapon determined to be in need of service or repair during an inspection by the Rangemaster will be immediately removed from service.

2. If the weapon is the sworn officer's primary duty handgun, a replacement Department-issued semi-automatic pistol will be issued to the sworn officer until the primary duty handgun is serviceable.

(i) Sworn officers shall not use any automatic weapon, heavy caliber rifle, gas or other type of chemical weapon from the armory, except with approval of a supervisor

311.3.1 STORAGE OF FIREARMS AT HOME

Employees shall ensure they lock or secure all firearms and ammunition in a manner that will keep them inaccessible to children and irresponsible adults while at home or within any premises that are under the employee's custody or control. Employees shall be aware that negligent storage of a firearm could result in criminal prosecution under Penal Code § 25100.

311.3.2 STORAGE OF FIREARMS IN VEHICLES

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

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

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

311.3.3 HOLSTERS

Holsters carried by uniformed officers shall be Department-issued or Department-authorized (for employee-purchased holsters).

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All new Recruit, Lateral or Reserve sworn employees hired after May 1, 2012 shall be required to use a Department-issued or Department-authorized Level III firearm holster. Effective January 6, 2015, the Department shall purchase and issue only Level III holsters. A list of Department-authorized holsters shall be maintained by the Support Services Division.

Any officer desiring to gain approval for a holster not on the approved list shall submit an Employee's Report (NBPD Form 15.7) and a sample holster to the Uniform Committee.

311.4 MAINTENANCE AND REPAIR

Duty weapons carried on- or off-duty by sworn officers shall be maintained in a clean, serviceable condition.

311.5 REPAIR OR MODIFICATION OF WEAPONS

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

Any repairs or modifications to sworn officer-owned weapons carried on- or off-duty shall be done at his or her own expense and must be approved by the Rangemaster.

311.6 WEAPONS QUALIFICATION

RANGE QUALIFICATION

It is the responsibility of sworn officers and other applicable employees to qualify with their carry weapons as established below:

- Every two months with their on-duty handgun.
- Every year with their off-duty and secondary handguns.
- Every two years with their on-duty rifle (or shotgun, if issued).
- Every two years with their conducted energy and control devices.
- Every Officer who chooses to carry a personally owned weapon will be required to qualify every two months with that weapon.
- Every Officer who chooses to carry a personally owned weapon will be required to qualify annually with their department issued Glock 17/19.
- Every Officer who chooses to carry a personally owned weapon is required to bring their Department-issued Glock 17/19 each time they qualify to be scanned into the firearms tracking system for inventory accountability.

The Rangemaster shall provide realistic weapons training to include both firearms and conducted energy and control devices where applicable to the assignment of sworn officers and other applicable employees. For sworn officers, firearms training shall cover the use of on-duty, off-duty, and secondary handguns as well as rifles and shotguns where applicable to the assignment.

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Sworn officers and other applicable employees shall demonstrate weapons proficiency as determined by the Rangemaster or qualified instructor.

ALTERNATIVE RANGE QUALIFICATION

When the situation exists that a sworn officer or other applicable employee cannot qualify at the Department Range, other arrangements must be made on a case-by-case basis with the approval of the Chief of Police. If an alternative range is used, weapons qualification shall be determined on an individual basis by consensus of the Rangemaster and the Chief of Police.

RANGE QUALIFICATION - AMMUNITION

Sworn officers will be supplied with sufficient 9x19mm,.38 Special,.40 S&W and.45 Auto Department-approved ammunition to train and qualify as determined by the Rangemaster. Department-approved ammunition other than 9x19mm,.38 Special,.40 S&W and.45 Auto shall be furnished by the qualifying sworn officer.

311.6.1 NON-QUALIFICATION FOR WEAPONS

(a) Sworn officers and other applicable employees who fail to meet qualifications for any carry weapon on their first attempt as determined by the Rangemaster or qualified instructor shall receive remedial training until they can demonstrate proficiency.

(b) Sworn officers and other applicable employees who are unable to complete the qualification of any carry weapon within the required qualification timeframe for any reason (e.g., injury, illness, duty status or a scheduling conflict) shall submit written notice to both their immediate supervisor and the Rangemaster requesting a temporary waiver of these requirements prior to the end of the required qualification timeframe for that particular carry weapon.

1. A waiver of these qualification requirements is determined on a case-by-case basis by the chain of command of the sworn officer or other applicable employee in consultation with the Rangemaster

2. A sworn officer or other applicable employee who fails to provide notice, fails to obtain a waiver, or repeatedly fails to qualify is subject to our progressive discipline policy and may be relieved from their field assignment until they have met the carry weapon qualification requirements.

311.7 WARNING AND OTHER SHOTS

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

311.7.1 STORAGE IN VEHICLES

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

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

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

311.8 DESTRUCTION OF ANIMALS

Sworn officers 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 sworn officers have sufficient advance notice that a potentially dangerous animal may be encountered, sworn officers should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, conducted energy device, kinetic energy projectile, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any sworn officer from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

311.8.1 NON-CERTIFICATION OR NON-QUALIFICATION

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

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

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

(b) Members shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.

(c) No range credit will be given for the following:

    1. Unauthorized range make-up

    2. Failure to meet minimum standards or qualify after remedial training

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

311.9 FIREARM DISCHARGE

Except during training or recreational use, any employee who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his or her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with Policy 309 – Officer-Involved Shooting.

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If a firearm was discharged as a use of force, the involved employee shall adhere to the additional reporting requirements set forth in Policy 300 - Use of Force.

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

(a) If on-duty at the time of the incident, the employee shall file a written report with his or her Division Commander or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.

(b) If off-duty at the time of the incident, the employee shall file a written report or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

311.10 FLYING WHILE ARMED

The Transportation Security Administration (TSA) has imposed rules governing sworn officers flying armed on commercial aircraft. The following requirements apply to sworn officers who intend to fly while armed on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

(a) Sworn officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the Department based on the law and published TSA rules.

(b) Sworn officers must carry their Newport Beach Police Department identification card, bearing the sworn officer's name, a full-face photograph, identification number, the sworn officer's signature and the signature of the Chief of Police or the official seal of the Department and must present this identification to airline officials when requested. The sworn officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).

(c) The Newport Beach Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the sworn officer's travel. If approved, TSA will send the Newport Beach Police Department an NLETS message containing a unique alphanumeric identifier. The sworn officer must present the message on the day of travel to airport personnel as authorization to travel while armed.

(d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the sworn officer. The letter should outline the sworn officer's need to fly armed, detail his or her itinerary, and include that the sworn officer has completed the mandatory TSA training for a law enforcement officer flying while armed.

(e) Sworn officers must have completed the mandated TSA security training covering sworn officers flying while armed. The Department-appointed instructor shall give the training.

(f) It is the sworn officer's responsibility to notify the air carrier in advance of the intended armed travel;early check-in at the carrier's check-in counter meets this notification requirement.

(g) Any sworn officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his or her assigned seat.

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(h) Any sworn officer flying while armed must use discretion to avoid displaying a firearm and unnecessarily alarming passengers or crew. The sworn officers must keep the firearm concealed on his or her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.

(i) Sworn officers should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.

(j) Sworn officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

311.11 RANGEMASTER DUTIES

The Department Range is under the exclusive control of the Rangemaster. All persons using the Department Range will follow the directions of the Rangemaster or any qualified instructor approved by the Rangemaster.

The Department Range shall remain operational and accessible to employees during hours established by the Rangemaster. The Rangemaster will maintain a roster of all employees using the Department Range and will submit the roster to the Training Sergeant after each range date.

The Rangemaster has the responsibility of making periodic inspections, at least once a year, of all duty firearms and other weapons carried by sworn officers and other applicable employees of this Department to verify proper maintenance, operation, and function. The Rangemaster has the authority to deem any Department-issued or sworn officer-owned firearm or other weapon unfit for duty.

The Rangemaster has the responsibility for ensuring sworn officers and other applicable employees meet the minimum weapons qualification requirements and that they can demonstrate proficiency in the care, cleaning, and safety of all weapons they are authorized to carry.

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

The Rangemaster shall maintain and publish from time to time a memorandum to the Chief of Police reflecting a current list of "Authorized Duty Weapon Ammunition, Accessories and Holsters" that conform to Department policy and are vetted and approved by the Rangemaster. This memorandum will inform employees of this Department as to items approved for use under Department policy with final determination made by the Chief of Police or his designee.

The Rangemaster is allowed to openly carry a firearm on duty while in uniform as long as it is carried in conformance with Policy 311.2 -Authorized Weapons, Ammunition and Related Equipment. The Rangemaster may also be issued a permit to carry a concealed weapon. The decision to issue a concealed weapon permit is made by the Chief of Police with input from the

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Support Services Director. Once issued, the concealed weapon permit will be valid only for as long as the Rangemaster remains in good standing as a Rangemaster with the Newport Beach Police Department.

311.11.1 RANGE SAFETY

(a) The Rangemaster shall have sole authority over the Department Range and is responsible for its operation, maintenance, and standard operating procedures. All persons shall comply with the following safety rules:

1. All persons entering the Department Range shall follow the directions of the Rangemaster or qualified instructor and adhere to the posted rules and established standard operating procedures.
2. The Rangemaster's Office and the Department Armory consisting of the work area behind the safe door is strictly off limits to unauthorized personnel for security and safety reasons.
3. The Department Range is for the use of sworn officers, other applicable employees, and other persons as approved by the Support Services Division Commander or the Chief of Police.
4. The Department Range is only used under the supervision of the Rangemaster or another qualified instructor as approved by the Rangemaster or his or her chain of command.
5. The Department Range is available for certifying retired law enforcement officers under the Law Enforcement Officers Safety Act (LEOSA) of 2004 by appointment with the Rangemaster. The Rangemaster shall require all retired law enforcement officers to sign a liability waiver prior to utilizing the Department Range.
6. The loading/unloading of weapons within the Department shall only be carried out with the weapon pointed down range within the Department Range or at one of the clearing barrels located in the Department Range, locker rooms or rear parking lot.
7. Weapons shall be checked and cleared using the clearing barrel in the cleaning area of the Department Range prior to cleaning. All weapon cleaning at the Police Department shall occur in the designated cleaning area of the Department Range.
8. No unsafe practices with weapons are tolerated in the Department Range or anywhere else.
9. A first aid kit shall be visible and readily accessible within the Department Range.

(b) Persons desiring to use the Department Range shall adhere to the following procedures:

1. Report to the Rangemaster or qualified instructor to confirm their availability for range training.
2. Unload the weapon using a clearing barrel prior to entering the Department Range. Once the weapon is unloaded with its action open (and magazine removed, if applicable), it shall be returned to its holster, or secured safely, prior to entering the Department Range. See Policy 312.3(c) - Safety Considerations For Firearms.

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3. Sign in to the Department Range computer by entering your login credentials and (if applicable) scan the RFID tag on your Department-owned weapon in a safe manner (e.g., unloaded with the action open). Failure to sign in and (if applicable) scan the RFID tag on your Department-owned weapon may result in non-qualification. All weapons are subject to inspection by the Rangemaster or qualified instructor before being fired on the Department Range.
4. Utilize eye and ear protection while shooting on the Department Range or while in the immediate vicinity of an in-progress shooting course.
5. Receive shooting instructions from the Rangemaster or qualified instructor and complete the course of fire as directed. All weapons shall be holstered, or secured safely, before any movement from one fixed shooting position to another.
6. Follow the Rangemaster's or qualified instructor's commands for making the weapon safe once the course of fire is completed.
7. Use the cleaning station and ensure the weapon is cleaned after completing weapons training.
8. Where applicable, load the weapon with duty ammunition using a clearing barrel and return it to its holster or secure it safely per the Rangemaster's standard operating procedures and Department policy.

INSTRUCTOR'S RESPONSIBILITIES

The Rangemaster and all qualified instructors shall demonstrate a proactive safety attitude and exhibit a professional demeanor at all times while on the Department Range. Persons desiring to use the Department Range shall immediately advise the Rangemaster of any pre-existing injuries or medical conditions that may affect their ability to safely participate in weapons training. Any violation of standard operating procedures to include safety guidelines, display of improper range procedures, or lack of sound judgment, which in the opinion of the Rangemaster or qualified instructor, places others at risk of injury, may result in the immediate removal of the individual from the Department Range.

USING OTHER FACILITIES - GUIDELINES

The location of the weapons training site should consider potential hazards to the public caused by the firing of weapons. The training site should be located in an area that minimizes any fire hazard to structures or vegetation and a fire extinguisher should be readily accessible at the training site. The training site should be reasonably free of loose gravel, rocks, or other debris and all targets shall be set up in such a manner as to minimize the danger of fire or ricochets. A telephone or an emergency radio should be immediately accessible in the event of an emergency. A medical response plan shall be prepared and a first aid kit should be readily accessible at the training site. Restroom facilities and drinking water should be available at the training site or in the immediate vicinity.

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311.12 CARRYING FIREARMS OUT OF STATE

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

(a) The sworn officer shall carry his or her Newport Beach Police Department identification card whenever carrying a firearm.

(b) The sworn officer is not the subject of any current disciplinary action.

(c) The sworn officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.

(d) The sworn officer will remain subject to this and all other Department policies (including qualifying and training).

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

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

311.13 RESERVE OFFICERS

Reserve sworn officers shall adhere to the following policy with regard to carrying firearms on duty.

OFF-DUTY

Off-duty reserve officers shall not carry a handgun, unless they have a valid permit to carry a concealed weapon.

311.14 RETIREE PURCHASE OF DEPARTMENT-ISSUED DUTY HANDGUN

A sworn officer employed by the Department for a period of at least 10 years and who is receiving an honorable service retirement or a service disability retirement not related to a mental or emotional disorder may be authorized to purchase their Department-issued duty handgun.

A retiring sworn officer who wishes to purchase their assigned Department-issued duty handgun must provide a written request at least ninety (90) days in advance of their projected retirement date. The Chief of Police or his or her designee may authorize proceeding with the purchase and transfer of the Department-issued duty handgun. Upon approval, the purchase and transfer shall be made through an independent Federal Firearms License (FFL) dealer. The transfer shall be made in compliance with all applicable State and federal laws. The retiring sworn officer is responsible for all fees incurred by or charged to the Department as a result of the requested purchase and transfer. The purchase price of the Department-issued duty handgun is either the current trade-in value or the appraised value of the firearm as determined by an independent FFL dealer in the Department's discretion.

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Prior to purchase and transfer, the Rangemaster will complete a final inspection of the Department-issued duty handgun to ensure it is in good working order. The Rangemaster will replace any defective or damaged parts prior to the transfer. Upon final transfer, the Rangemaster will remove the handgun from the inventory list of Department-owned firearms and ensure that all required purchase and transfer processes and appropriate CLETS entries are completed.

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Vehicle Pursuits

312.1 PURPOSE AND SCOPE

This policy provides guidelines for vehicle pursuits in order to protect the safety of involved officers, the public, and fleeing suspects (Vehicle Code § 17004.7).

312.1.1 DEFINITIONS

Definitions related to this policy include:

Blocking - A preventive maneuver where emergency vehicles are strategically positioned to prevent a suspect from moving their vehicle, usually before a pursuit starts or at low speeds.

Pursuit Intervention Technique (PIT) - A low-speed tactic designed to apply lateral pressure to the rear quarter panel of a fleeing vehicle, causing it to spin out, stall, and come to a stop (also known as a Precision Immobilization Technique).

Ramming - The deliberate act of impacting a fleeing vehicle with another vehicle to functionally damage or otherwise force the fleeing vehicle to stop.

Tire deflation device - A device designed to be placed on the roadway and puncture the tires of a fleeing vehicle, sometimes referred to as spike strips.

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.

312.2 POLICY

It is the policy of this department to balance the need to apprehend a fleeing suspect with the risks associated with vehicle pursuits.

312.3 INITIATING A PURSUIT

Officers who have received appropriate training are authorized to initiate a vehicle pursuit when the need to apprehend a fleeing suspect clearly outweighs the risks a vehicle pursuit poses for officers and the public.

When balancing the risk of a pursuit with the need to apprehend the suspect, officers shall consider:

(a) The seriousness of the known or reasonably suspected crime committed by the suspect and the threat to the safety of the public if the suspect remains at large.

(b) Whether the identity of the suspect is known with enough certainty to enable apprehension at a later time.

(c) The speed of the vehicles relative to the conditions of the area, such as the population density, amount of vehicular and pedestrian traffic (e.g., school zones), time of day, road conditions, environmental conditions (e.g., hills, curves, mountains), and weather conditions.

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(d) The pursuing officer's driving capabilities, familiarity with the area, and quality of radio communications with the dispatcher/supervisor.

(e) The nature of the pursuing unit (e.g., marked vs. unmarked) and its speed and performance capabilities in relation to the fleeing vehicle (e.g., performance motorcycle).

(f) Whether there are other persons in or on the fleeing vehicle and their relationship to the situation (e.g., passengers, co-offenders, hostages).

(g) Whether the pursuing unit is carrying passengers other than on-duty policeofficers. Pursuits should not be undertaken with an arrestee in the pursuit vehicle unless exigent circumstances exist.

(h) The availability of other resources such as air support or vehicle locator/deactivation technology.

312.4 PURSUIT UNITS

Vehicle pursuits should be limited to three policedepartment emergency vehicles (two pursuit units and the supervisor vehicle). However, an officer or supervisor may request that additional units join a pursuit if, after assessing the factors outlined above, it reasonably appears that the number of officers involved may be insufficient to safely arrest the number of suspects.

312.4.1 EMERGENCY EQUIPMENT

Vehicle pursuits shall only be conducted using authorized policedepartment vehicles that are equipped with emergency lighting and sirens as required by Vehicle Code § 21055. Each pursuit unit's emergency lights and sirens should remain activated throughout the unit's participation in the pursuit.

Officers operating vehicles not equipped with emergency lights and siren are prohibited from pursuing a fleeing vehicle or joining a pursuit. Officers in such vehicles may provide support to pursuing units when needed, but should operate the vehicle in compliance with all traffic laws and should discontinue such support immediately upon arrival of a sufficient number of authorized emergency vehicles or any air support.

312.4.2 MOTORCYCLES AND UNMARKED UNITS

When involved in a pursuit, policedepartment motorcycles and unmarked vehicles should be replaced by marked four-wheel emergency vehicles as soon as practicable.

312.4.3 PRIMARY UNIT

The initial pursuing officer should be designated as the primary unit and will be responsible for the conduct of the pursuit unless that unit is unable to remain reasonably close to the suspect's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspect without unreasonable danger to themself or others.

As soon as practicable, the primary unit should notify Dispatch of the pursuit, request priority radio traffic, and provide appropriate information including:

(a) The location, direction of travel, and estimated speed of the pursuit.

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(b) The description of the fleeing vehicle, including the license plate number, if known.

(c) The reason for the pursuit.

(d) A description of the fleeing vehicle's evasive driving behavior (e.g., rapid lane changes, no headlights, driving on the wrong side of the road).

(e) Known or suspected weapons, threat of force, violence, injuries, hostages, or other unusual hazards.

(f) The suspected number of occupants and their identities or descriptions.

(g) The weather, road, and traffic conditions.

(h) The need for any additional resources or equipment.

(i) The identities of other law enforcement agencies involved in the pursuit.

The primary unit is responsible for broadcasting the progress of the pursuit until a secondary or air unit joins the pursuit. Once an additional unit joins the pursuit, the primary unit should relinquish the responsibility of broadcasting the progress to the secondary or air unit unless circumstances reasonably indicate otherwise.

312.4.4 SECONDARY UNIT

The second officer in the pursuit should be designated as the secondary unit and is responsible for:

(a) Notifying Dispatch of their entry into the pursuit.

(b) Broadcasting the progress of the pursuit, updating known or critical information, and providing changes in the pursuit, unless the situation indicates otherwise.

(c) Identifying the need for and requesting additional resources or equipment as appropriate.

(d) Serving as backup to the primary unit once the fleeing vehicle has been stopped.

312.4.5 AIR UNITS

When available, air unit assistance should be requested. The air unit should assume responsibility of broadcasting the pursuit once they have established visual content with the fleeing vehicle. Ground units should maintain operational control and consider whether the continued close proximity and/or involvement in the pursuit is warranted.

The air unit should coordinate the activities of resources on the ground, report progress of the pursuit, and provide pursuing units with details of upcoming traffic congestion, road hazards, or other information pertinent to evaluating whether to continue the pursuit. If ground units are not within visual contact of the fleeing vehicle and the air unit determines that it is unsafe to continue the pursuit, the air unit should recommend termination.

312.5 PURSUIT DRIVING

The decision to use specific driving tactics requires consideration of the same factors as initiating a pursuit. In addition, officers involved in the pursuit should adhere to the following:

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(a) Pursuing units should space themselves far enough from other involved vehicles to be able to see and avoid hazards and react safely to maneuvers by the fleeing vehicle.

(b) Pursuing units should exercise caution and slow down as necessary when proceeding through intersections.

(c) Pursuing units should not follow a fleeing vehicle driving against traffic (wrong way) and should instead:

1. Request assistance from available air support.
2. Maintain visual contact with the fleeing vehicle by paralleling it on the correct side of the roadway.
3. Request other units to observe exits available to the fleeing vehicle.

(d) Pursuing units should request that Dispatch notify the California Highway Patrol (CHP) and/or another law enforcement agency if it appears that the pursuit may enter its jurisdiction.

(e) Pursuing units should not attempt to pass other pursuit units unless the situation indicates otherwise or they are requested to do so. Passing another pursuit unit should only be attempted with a clear understanding of the maneuver.

312.5.1 RULES OF THE ROAD

The speed of a vehicle pursuit is a factor that should be evaluated on a continuing basis by the officer and supervisor. Evaluation of vehicle speeds should 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.

(c) Pursuit speeds are beyond the capabilities of the pursuit vehicle, thus making its operation unsafe.

312.5.2 OFFICERS NOT INVOLVED IN THE PURSUIT

Officers not directly involved in the pursuit should stay alert to its progress and location and may proceed safely to intersections ahead of the pursuit to warn cross traffic. When clearing intersections along the pursuit path, officers are authorized to use emergency equipment and should attempt to place their vehicles in locations that provide some safety or an escape route in the event of an unintended collision or a suspect intentionally trying to ram the policedepartment vehicle.

Other than clearing intersections along the pursuit path, uninvolved officers should avoid operating under emergency conditions (emergency lights and siren) and should remain in their assigned areas unless directed otherwise by a supervisor.

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When needed, non-pursuing officers and officers who have dropped out of the pursuit should respond to the pursuit termination point in a non-emergency manner, observing the rules of the road. Officers should not parallel the pursuit route.

312.6 SUPERVISORY CONTROL AND RESPONSIBILITIES

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

(a) Immediately notifying the involved units and the dispatcher of supervisory presence and ascertaining all reasonably available information in order to continuously assess the situation and risk factors associated with the pursuit.

(b) Exercising management and control of the pursuit and, when appropriate, engaging in the pursuit to provide on-scene supervision.

(c) Confirming that no more pursuing units than required are involved in the pursuit.

(d) Directing that the pursuit be terminated if, in the supervisor's judgment, continuing the pursuit is not justified under the guidelines of this policy.

(e) Assessing the emotional state of the officers involved and directing an officer to disengage from the pursuit if it appears they are unable to control their emotions.

(f) Requesting additional assistance from air support, canines, or other resources, if available and appropriate.

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

(h) Confirming the Watch Commander has been notified of the pursuit.

(i) Overseeing the notification and/or coordination of outside agencies if the pursuit leaves or is likely to leave the jurisdiction of this department.

(j) Continuing the management and control of Newport Beach Police Department units when a pursuit enters another jurisdiction.

(k) Preparing documentation of the pursuit and conducting a post-pursuit review, as required.

312.6.1 WATCH COMMANDER RESPONSIBILITIES

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

312.7 DISPATCH

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

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312.7.1 DISPATCH RESPONSIBILITIES

Upon notification or becoming aware that a pursuit has been initiated, the dispatcher is responsible for:

(a) Clearing the radio channel of non-emergency traffic.

(b) Coordinating pursuit communications of the involved units and personnel.

(c) Broadcasting pursuit updates as well as other pertinent information as necessary.

(d) Ensuring that a field supervisor is notified of the pursuit.

(e) Notifying and coordinating with other involved or affected agencies as practicable.

(f) Notifying the Watch Commander as soon as practicable.

(g) Assigning an incident number and logging all pursuit activities.

312.8 INTERJURISDICTIONAL CONSIDERATIONS

Unless entry into another jurisdiction is expected to be brief, the primary unit or supervisor should ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether such jurisdiction is expected to assist.

312.8.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

When a pursuit enters another agency's jurisdiction, the primary unit or the supervisor should determine whether to request the other agency assume the pursuit, taking into consideration the distance traveled, familiarity with the area, and other pertinent facts.

Once another agency has agreed to assume the pursuit, pursuing units should relinquish control and discontinue participation unless the continued assistance of the Newport Beach Police Department is requested by the agency assuming the pursuit. Upon relinquishing control of the pursuit, the involved officers may, with supervisory approval, proceed to the termination point in order to provide information and assistance for the arrest of the suspect and reporting of the incident. The supervisor should coordinate such assistance with the assuming agency and obtain any information that is necessary for department reports.

312.8.2 PURSUITS EXTENDING INTO THIS JURISDICTION

Officers from this department should not join a pursuit being conducted by another agency unless specifically requested to do so by that agency and with approval from a supervisor.

When a request is made for this department to assist or take over a pursuit that has entered the jurisdiction of the Newport Beach Police Department, the Watch Commander or supervisor should review the request as soon as practicable, taking into consideration:

(a) Whether the need to apprehend the fleeing suspect outweighs the risks of the pursuit to officers and the public.

(b) Whether there is adequate staffing to continue the pursuit.

(c) The available units' capabilities to maintain the pursuit.

(d) The number of available units and other resources of the pursuing agency.

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Assistance to a pursuing agency by officers of this department should terminate at the City limits, provided that the pursuing agency has sufficient assistance from other sources. Ongoing participation from this department should continue only until sufficient assistance is present.

In the event that a pursuit from another agency terminates within this jurisdiction, officers should provide appropriate assistance to the pursuing agency such as scene control, inter-agency coordination, completion of supplemental reports, and any other reasonable assistance requested or needed.

312.9 PURSUIT INTERVENTION

Pursuit interventions should only be used when it reasonably appears that using the intervention will contain or prevent the pursuit, and the need to immediately stop the fleeing vehicle outweighs the risks of injury or death to officers and others.

Pursuit interventions may be construed as a use of force, including deadly force, and are subject to the policies guiding such use. Officers should consider the guidelines for the use of force when deciding how, when, where, and if a pursuit intervention should be employed. Refer to the Use of Force Policy for additional guidance.

Whenever practicable, an officer should seek approval from a supervisor before employing any pursuit intervention to stop a fleeing vehicle. Officers should not attempt a pursuit intervention unless they have received the appropriate training for the intervention being used.

312.9.1 TIRE DEFLATION DEVICE

Before deploying a tire deflation device, officers should consider factors such as:

(a) Speed of the fleeing vehicle - Traveling at high speeds increases the risk the suspect will lose control of the vehicle after driving over or swerving to avoid a tire deflation device.

(b) Weather and visibility - Tire deflation devices should only be deployed when the location, weather, and other conditions allow the deploying officer to clearly see the fleeing vehicle, pursuit units, and other approaching traffic.

(c) Cover - Deployment should occur in a location that provides the deploying officer adequate cover and escape from intentional or unintentional exposure to the approaching vehicles.

(d) Road conditions - Soft or loose material such as dirt or gravel may prevent a tire deflation device from puncturing the vehicle's tire. Deploying the device on loose pavement or icy or wet roads increases the risk of the suspect losing control of the vehicle.

(e) Characteristics of the deployment area - A tire deflation device should not be deployed in areas that are heavily populated with pedestrians, at times of heavy traffic, or at a location where there is a heightened chance of striking a fixed object.

(f) Characteristics of the fleeing vehicle - Except in extraordinary circumstances, a tire deflation device should not be used when the fleeing vehicle is a motorcycle or

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other vehicle with fewer than four wheels, an ATV, a vehicle transporting hazardous materials, or a school bus transporting children.

Because of the risks to deploying officers, the intent to deploy a tire deflation device and its location should be clearly communicated to the dispatcher and all involved units.

312.9.2 PIT

A PIT should only be attempted in a vehicle with a reinforced bumper.

Before conducting a PIT, officers should consider factors such as:

(a) Speed of the fleeing vehicle - Conducting a PIT while traveling at high speeds increases the risk of the suspect or officer losing control of their vehicle. A PIT should not be conducted at speeds greater than the speed at which the officer has received training.

(b) Road conditions - Because the intention of a PIT is to cause the fleeing vehicle to spin out by reducing the friction between the tires and the roadway, the material of the roadway (e.g., pavement, gravel, dirt) should be considered and a PIT should not be attempted when road conditions are wet or icy.

(c) Characteristics of the deployment area - A PIT should not be attempted in areas that are heavily populated with pedestrians, at times of heavy traffic, or at a location where there is a heightened chance of striking a fixed object.

(d) Characteristics of the fleeing vehicle - A PIT should not be used when the pursued vehicle is a motorcycle or other vehicle with fewer than four wheels, an ATV, a vehicle transporting hazardous materials, or a school bus transporting children. The increased risk of rolling over should be evaluated on vehicles with a high center of gravity.

(e) Number of pursuit units - A PIT should not be used unless there is a sufficient number of pursuit units available to prevent further movement of the fleeing vehicle after spinning out.

312.9.3 BLOCKING

Blocking should only be used when the suspect's vehicle is stopped or traveling at a low speed. Low speed, minimal contact with the suspect vehicle while blocking shall not be considered ramming or a roadblock.

312.9.4 RAMMING AND ROADBLOCKS

Ramming and roadblocks shall only be used when deadly force is warranted and all other reasonable alternatives have been exhausted or reasonably appear ineffective. The Chief of Police or the authorized designee should maintain written procedures for safe and lawful implementation of roadblocks.

Requirements to use ramming or roadblock techniques:

(a) Supervisory approval is required before attempting ramming or roadblock techniques.

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(b) The need to immediately stop the suspect vehicle must reasonably appear to substantially outweigh the risks of injury or death to occupants of the suspect vehicle, officers or other members of the public.

(c) It reasonably appears that the technique will terminate or prevent a pursuit.

(d) Ramming and roadblocks may only be used under circumstances when deadly force would be authorized.

(e) Ramming and roadblocks may only be used when all other reasonable alternatives have been exhausted or reasonably appear to be ineffective.

312.9.5 FIREARMS

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 threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle (see the Use of Force Policy).

312.10 PURSUIT OF ELECTRICAL BICYCLES (E-BIKES)

Officers should consider the totality of the circumstances before initiating an electric bicycle pursuit.

A pursuit should generally be limited to circumstances in which the officer reasonably believes:

(a) The rider has committed, is committing, or is about to commit a serious or violent criminal offense; or

(b) The rider's conduct presents an immediate or reasonably foreseeable threat of death or serious bodily injury to the public; or

(c) Immediate apprehension is reasonably necessary based upon the seriousness of the offense and the circumstances known to the officer.

Flight alone does not establish sufficient justification to initiate or continue a pursuit.

A pursuit should not ordinarily be initiated solely for:

(a) An equipment violation.

(b) A bicycle or electric bicycle regulatory violation.

(c) A helmet violation.

(d) A minor traffic violation.

(e) Riding in a prohibited location.

(f) An age-related electric bicycle violation.

(g) An infraction or other minor offense that does not create an immediate threat to public safety.

(h) The rider's refusal to stop, when the underlying reason for the attempted detention is a minor violation and no additional circumstances create an immediate public safety concern.

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Nothing in this section prohibits an officer from attempting a lawful enforcement contact or detention. The decision to attempt a stop and the decision to engage in a pursuit are separate decisions and shall be independently evaluated.

Officers should recognize that juveniles may have limited judgment, experience, and appreciation of the risks associated with fleeing from law enforcement.

When a fleeing rider is known or reasonably believed to be a juvenile, the rider's apparent age shall be considered as part of the ongoing risk assessment. Absent an immediate threat of death or serious bodily injury or circumstances involving a serious or violent criminal offense, officers should generally avoid engaging in or continuing a pursuit of a juvenile rider when the pursuit is causing or reasonably appears likely to cause the juvenile to engage in increasingly dangerous behavior.

312.11 TERMINATING A PURSUIT

The factors considered when initiating a pursuit should be continually reevaluated by pursuing units during the pursuit, as the circumstances and conditions change, and as new information becomes available. If at any time the risk of continuing the pursuit outweighs the need to immediately apprehend the suspect, the pursuit should be terminated.

In addition, a pursuit should be terminated when:

(a) A supervisor directs the pursuit to be terminated.

(b) The location of the fleeing vehicle is no longer known.

(c) The distance between the pursuing units and the fleeing vehicle is so great that further pursuit would be futile or would continue for an unreasonable time and/or distance.

(d) The pursuing unit sustains damage or a mechanical failure that makes it unsafe to drive or renders the emergency lighting and sirens partially or completely inoperable and there are no additional units readily available to take over the pursuit.

When a pursuit terminates for any reason, all pursuit units should verbally acknowledge termination, turn off emergency lights and sirens, reduce their speed, and obey all traffic laws. The primary unit should communicate the location of pursuit termination to the dispatcher.

312.11.1 LOSS OF PURSUED VEHICLE

When a pursuit is terminated because the location of the fleeing vehicle is no longer known, the primary unit should broadcast pertinent information for other units to assist in locating the suspect. The primary unit or supervisor will be responsible for coordinating any further search for the pursued vehicle.

312.11.2 APPREHENSION OF SUSPECTS

Officers should exercise proper self-discipline and sound professional judgment at the conclusion of a pursuit and while apprehending the suspect.

Unless otherwise directed by a supervisor, an officer other than the primary unit should coordinate efforts to apprehend the suspect following the pursuit.

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Any use of force necessary to apprehend the suspect shall be consistent with the Use of Force Policy.

312.12 DEBRIEFING

Participating officers should return to the Department as soon as practical following a pursuit to debrief with a supervisor.

312.13 REPORTING REQUIREMENTS

Appropriate reports should be completed as required by applicable laws, policies, and procedures.

(a) Pursuing officers should complete appropriate crime/arrest and pursuit reports.

(b) The involved supervisor, or if unavailable, the on-duty field supervisor, shall obtain available information and promptly complete appropriate written notification to the Chief of Police or the authorized designee. The notification should briefly summarize the pursuit and include, at a minimum:

1. Date and time of the pursuit.
2. Reason and circumstances surrounding the pursuit (e.g., seriousness of the crime, road and traffic conditions, speed and driving behavior of the fleeing vehicle) that warranted initiation and continuation of the pursuit.
3. Length of pursuit in distance and time, including the starting and termination points.
4. Involved vehicles and officers.
5. Alleged offenses.
6. Whether a suspect was apprehended, as well as the means and methods used.
7. Arrestee information, if applicable.
8. Any injuries and/or medical treatment.
9. Any property or equipment damage.
10. Name of supervisor at the scene or who handled the incident.

After receiving copies of the written notification, reports, and other pertinent information, the Chief of Police or the authorized designee shall conduct or assign a post-pursuit review, as appropriate.

The Chief of Police should direct an annual documented review and analysis of department vehicle pursuits to minimally include policy suitability, policy compliance, and training or equipment needs. The review should not contain the names of officers, suspects, or case numbers.

312.13.1 STATE-SPECIFIC REPORTING REQUIREMENTS

The Watch Commander shall ensure that an Allied Agency Vehicle Pursuit Report (form CHP 187A) is filed with the CHP not later than 30 days following the pursuit (Vehicle Code § 14602.1). The primary officer should complete as much of the required information on the form as is known and forward the report to the Watch Commander for review and distribution.

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312.14 PURSUIT TRAINING

The Training Manager should ensure that members of this department receive initial and annual training on this policy and vehicle pursuits relevant to their role (e.g., officers, supervisors, air units, dispatchers).

Officer training should address decision-making involved in initiating, continuing, and terminating a pursuit by balancing the need to apprehend the suspect with the risk of a pursuit. Subject to available resources, training on pursuit driving and the deployment of pursuit intervention tactics should include scenario-based training and behind-the-wheel practice, in addition to classroom instruction.

312.14.1 STATE-SPECIFIC TRAINING REQUIREMENTS

The Training Manager shall make available to all officers initial and supplementary POST training on pursuits required by Penal Code § 13519.8, Vehicle Code § 17004.7(d), and 11 CCR 1081, and no less than annual training addressing:

(a) This policy.

(b) The importance of vehicle safety and protecting the public.

(c) The need to balance the known offense and the need for immediate capture against the risks to officers and others.

312.15 POLICY ACKNOWLEDGEMENT

Officers of this department shall certify in writing that they have received, read, and understand this policy initially, upon any amendments, and whenever training on this policy is provided. The POST attestation form, or an equivalent form, may be used to document the compliance and should be retained in the member's training file.

312.16 APPLICATION OF VEHICLE PURSUIT POLICY

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

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Speed Pacing

315.1 PURPOSE AND SCOPE

During a speed pace an officer is operating the police vehicle without use of emergency equipment while following and monitoring the driving actions of a possible traffic violator. An officer initiating a speed pace must be aware of the real potential for injury to the officer and other persons.

315.2 POLICY

Officers should consider many factors in justifying a speed pace, including some or all of the following:

- Seriousness of the offender's conduct
- Speeds involved
- Roadway conditions
- Weather conditions
- Traffic conditions
- Pedestrian activity
- Nature of the area
- Alternatives to apprehension
- Feasibility of apprehension
- Officer's training and driving abilities
- The officer is not operating an "authorized emergency vehicle" without using the required light(s) and siren.

Accordingly, officers should minimize the extent and duration of speed in excess of posted or prima facie limits during the pace. Use of "estimated speed" experience and prompt use of emergency equipment is encouraged when excessive speed may create an undue risk of injury.

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Officer Response to Calls

316.1 PURPOSE AND SCOPE

This policy provides officers with guidelines for the safe and appropriate vehicular response to emergency and non-emergency incidents or requests for assistance, whether these are dispatched or self-initiated.

316.2 RESPONSE TO CALLS

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

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

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

316.3 REQUESTING EMERGENCY ASSISTANCE

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

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

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

316.3.1 NUMBER OF UNITS ASSIGNED

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

316.4 INITIATING CODE 3 RESPONSE

If an officer believes a Code-3 response to any call is appropriate, the officer shall immediately notify Dispatch. Generally, only one unit should respond Code-3 to any situation. Should another officer believe a Code-3 response is appropriate, Dispatch shall be notified and the Watch

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Commander or field supervisor will make a determination as to whether one or more officers driving Code-3 is appropriate.

316.5 RESPONSIBILITIES OF RESPONDING OFFICERS

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

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

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

316.6 COMMUNICATIONS RESPONSIBILITIES

A dispatcher shall assign a Code-3 response when an officer requests emergency assistance or available information reasonably indicates that the public is threatened with serious injury or death and immediate police response is needed. In all other circumstances, the dispatcher shall obtain authorization from the Watch Commander or a field supervisor prior to assigning units Code-3. The dispatcher shall:

(a) Attempt to assign the closest available unit to the location requiring assistance.

(b) Immediately notify the Watch Commander.~~Confirm the location from which the unit is responding.~~

(c) Notify and coordinate allied emergency services (e.g., fire and ambulance).

(d) Continue to obtain and broadcast information as necessary concerning the response and monitor the situation until it is stabilized or terminated.

(e) Control all radio communications during the emergency and coordinate assistance under the direction of the Watch Commander or field supervisor.

316.7 SUPERVISORY RESPONSIBILITIES

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

(a) The proper response has been initiated

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

(c) Affected outside jurisdictions are being notified as practical

The field supervisor shall monitor the response until it has been stabilized or terminated and assert control by directing units into or out of the response if necessary. If, in the supervisor's judgment,

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

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

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

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

316.8 FAILURE OF EMERGENCY EQUIPMENT

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

316.9 ANNUAL POLICY REVIEW

The PatrolDivision, or the authorized designee, shall conduct an annual review of this policy and related procedures and submit a report to the Chief of Police indicating any recommended changes or requested training.

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Mounted Enforcement Unit

318.1 PURPOSE AND SCOPE

The mission of the Newport Beach Police Department Mounted Enforcement Unit (MEU) Program is to provide the Department additional resources and special expertise in the area of equestrian services to better serve the citizens of Newport Beach. NBPD MEU will augment traditional patrol and specialized departmental units and integrate with other police services. Highly skilled and trained teams of mounted officers and horses have evolved from the program and are used to supplement police operations to deter crime, conduct high visibility patrols, and assist in dealing with large crowds. Officers and horses assigned to the MEU also foster positive interaction with the community at large.

318.2 GUIDELINES FOR THE USE OF MEU

Police horses may be used to support the operations of all current NBPD Divisions, as well as outside agencies. The MEU is a collateral assignment which will be secondary to the MEU members' primary duty function. The functions of the MEU include, but will not be limited to:

(a) Establish a highly visible police presence to deter crime.

(b) Patrols of city beaches, parks, shopping centers and other open space areas.

(c) Assist with searches for suspects, missing adults/children, and evidence.

(d) Assist in controlling crowds at special events, including but not limited to sporting events, demonstrations, parades, and concerts.

(e) Maintain order while reducing risk of injury to police officers and citizens at potentially violent confrontations with crowds

(f) Provide a police presence during the event of a natural disaster; search and rescue in areas where access for vehicles is limited or denied.

(g) Any other event or function designated by the Chief of Police or the Patrol/Traffic Division Commander to better serve the Department and the citizens of the City of Newport Beach.

(h) MEU Officers should be deployed in teams of two or more in order to ensure maximum safety. Horses are herd animals and feel safer and more relaxed when working together due to their natural herd instincts. When Outside Agency assistance is being utilized within the City, NBPD MEU Officers should be partnered with an Outside Agency MEU Officer whenever possible.

(i) MEU Officers will be considered on-duty during the following period:

1. One hour prior to the arrival at the assignment (Travel/prep time from barn to deployment location)
2. During the performance of their assigned duties
3. One hour after the conclusion of their assignment (Clean-up/travel time from deployment location to barn).

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4. During all monthly assigned training days or other department authorized training.

It is recognized that situations may arise that do not fall within the provisions set forth in this policy. In any such case, a standard of objective reasonableness shall be used to review the decision to use a police horse in view of the totality of the circumstances where the deployment or use could be interpreted as a use of force, as defined in California Penal Code Section 835a.

318.2.1 AUTHORIZATION FOR UTILIZING A POLICE HORSE

In all situations, the MEU officer will have the ultimate authority to determine whether or not it is safe to deploy a police horse in the given environment or situation. A MEU officer will evaluate each situation and determine whether or not they are able to successfully complete their mission or objective (i.e., general patrol, crowd control, search and rescue, etc.) A MEU officer shall have the ultimate authority not to deploy their horse. However, a supervisor sufficiently apprised of the situation may decide not to deploy horses. Field Supervisors should also consider consulting with the MEU Supervisor in such situations.

318.2.2 GUIDELINES FOR NON-ENFORCEMENT USE

Because horses have the ability to assist with search and rescue missions (e.g., lost children, individuals who may be disoriented or in need of medical attention) it will be necessary for the mounted officer to evaluate the conditions and ability of the police horse to determine the feasibility of such an application.

(a) Environment, terrain, time of day, and weather conditions should all be considered when deciding whether or not to deploy a police horse for such use.

(b) All such deployments shall be at the approval of the MEU Supervisor or MEU Lieutenant.

318.2.3 REPORTING INJURIES RELATED TO MEU USE

Whenever the police horse is deployed and an injury to either an officer, suspect, or civilian occurs, the MEU supervisor and Watch Commander shall be notified as soon as practicable. A report shall be completed to document the incident by the mounted officer and turned in to the MEU supervisor or Watch Commander for review. The same shall apply for any off-duty related incidents.

If an injury results from the use of the police horse in an enforcement capacity, the mounted officer shall request paramedics and notify the Watch Commander immediately. Current protocol shall be followed regarding the documentation and investigation of injuries sustained to an officer (Workers Compensation), suspect, and/or civilian (Preliminary Claims Report). If the injuries sustained to a suspect were the result of a use of force by the MEU Officer, then current protocol for documenting the use of force shall apply. The MEU Officer shall document the incident in the appropriate report and the report shall be reviewed according to current Use of Force review protocols.

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

Any unintended injury caused by the police horse during deployments, operations, training, presentations, or under any other circumstances, whether on or off-duty, shall be promptly

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reported to the MEU supervisor. Unintended injuries caused by the police horse should be documented by a supervisor on the appropriate report form utilizing current protocols.

318.2.4 REPORTING POLICE HORSE/OFFICER INJURIES

In the event that a police horse is injured, the injury will be immediately reported to the MEU Supervisor and/or Watch Commander. In the case of a minor injury, the officer will administer first aid to the injured horse.

If the injury to the horse requires the need of a veterinarian, the horse will be placed into a horse trailer and transported to a large animal veterinarian. If the injury is to the extent the horse cannot be loaded into a horse trailer, a veterinarian shall be requested to respond to the scene. The injury will be documented by the responding veterinarian and that record will be maintained by the veterinarian.

A written account detailing the extent of the injury and how it occurred will be submitted to the MEU supervisor as soon as possible. Payment for veterinarian services for any on-duty related injuries will be provided by the Department. Refer also to Emergency Medical Care 317.9.2.

Any injuries sustained by a MEU Officer during Department authorized training or deployments shall be considered on-duty injuries. The MEU Supervisor shall be responsible for documenting any injuries according to existing policies and procedures.

318.2.5 ASSIGNMENT OF MEU

The NBPD MEU will be staffed by full time or level 1 reserve NBPD Officers as a collateral duty assignment. The MEU shall be assigned to the Patrol/Traffic Division. MEU teams should function primarily as cover units but may be assigned by the Watch Commander to other functions as needed. NBPD Volunteers may also be assigned to the MEU at the discretion of the Chief of Police or designee.

318.2.6 INJURY OR INCAPACITATION OF MOUNTED OFFICER

Should a mounted officer become injured or incapacitated with the horse present, their mounted partner shall be responsible for maintaining control of the injured officer's horse. If the mounted officer's partner is unavailable or also incapacitated, another on-duty officer may be used to maintain control of the police horse until another mounted officer or officer with sufficient horse experience is available to assist.

318.3 REQUEST FOR USE OF MEU

Personnel within the Department are encouraged to freely solicit the use of the MEU. Requests for MEU teams shall go through the MEU Supervisor.

318.3.1 REQUEST FOR ASSISTANCE FROM OUTSIDE AGENCIES

The NBPD MEU is a member of the Orange County Regional Mounted Enforcement Unit (OCRMEU). All involved agency heads have signed a memorandum of understanding (MOU) with the OCRMEU which specifies the conditions under which mounted officer resources are shared. All requests for outside agency assistance shall go through the MEU supervisor. The MEU

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supervisor shall approve all requests for MEU assistance from outside agencies, subject to the following provisions:

317.3.1.1 MEU teams shall not be used for any assignment that is not consistent with this policy.

317.3.1.2 MEU teams shall not be called out while off-duty or used outside the boundaries of the City of Newport Beach unless authorized by the MEU Supervisor.

317.3.1.3 Mounted officers will deploy their horses under the guidelines set forth by this Department and NOT that of an Outside Agency.

318.3.2 REQUEST FOR PUBLIC DEMONSTRATIONS/APPEARANCES
The public relations benefits gained as a result of the public petting horses is immeasurable. Police animals offer a great way to bring members of the public together with officers from the Department in a non-enforcement capacity. At the discretion of the MEU member, members of the public may be allowed to pet the horses during routine deployments and public appearances. MEU members must be aware of their surroundings at all times to ensure the safety of citizens around the horses. MEU members should pay particular attention to citizens approaching from the rear of the horse, and should direct the public to approach the horses from the front. Civilians will not be allowed to mount or ride a police horse at any time.

All public requests for police horses shall be approved by the MEU Supervisor prior to making any commitment. The Office of the Chief of Police shall approve all information and statistics on the unit's performance for public use.

318.4 SELECTION OF MEU OFFICERS

Officers interested in becoming members of the MEU shall submit an Employees Report (Form15.7) to the MEU Supervisor stating their desire to be selected for the assignment. The number of MEU Officers assigned to the unit shall be at the discretion of the Chief of Police or designee. The minimum qualifications for the assignment of MEU Officer include:

(a) An officer who has successfully completed the FTO program and is currently off probation, in good standing with the Department.

(b) A Reserve Officer who has at least 12 months experience with the Newport Beach Police Department and is rated as a Level 1 Reserve Officer, in good standing with the Department.

(c) Law enforcement experience and demonstrated skills in current and previous assignments will also be considered.

(d) Interested officers must also be physically fit and able to handle the rigors associated with riding and handling a police horse.

(e) MEU Officers must be knowledgeable and comfortable riding and working with all MEU horses in the event a particular horse is unavailable for assignment due to injury or other unforeseen circumstances.

(f) Must be available to work MEU deployments within the City of Newport Beach, as well as other Outside Agency Requests and shift change assignments as necessary.

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(g) Must have good interpersonal skills to deal with the public and the ability to deal with high-risk and stressful situations in the field.

(h) MEU team members will be required to work at least four (4) mounted assignments per calendar year. Members unable or unwilling to work at least four (4) assignments will be subject to suspension or removal from the unit. Training sessions are not considered deployments or assignments for purposes of this section.

(i) MEU team members are also subject to removal by the Chief of Police or designee for failing to maintain MEU standards or for misconduct.

318.5 SELECTION OF MEU HORSES

318.5.1
Horses selected for the mounted unit must be suitable for the varied uses in typical law enforcement situations within the City of Newport Beach. Emphasis during selection will be placed on temperament, willingness, and obedience as well as appearance.

318.5.2
All horses selected must be calm, gentle, and free of vicious habits or traits which might present a danger to the rider or the public. They must not be hard to catch when turned out, nor balk, rear, or shy when groomed or saddled. The horse must be quiet and not object to being rubbed or petted by strangers. Likewise, they should be used to most types of general noises and objects.

318.5.3
A complete examination by a competent equine veterinarian is required to ensure all animals selected are sound, that they have no contagious diseases, and that they are free of any physical impairments.

318.5.4
There are no restrictions regarding the color of the horses selected to the mounted unit.

318.5.5
The overall appearance of the horses selected will reflect the highest standard of professionalism represented in the Newport Beach Police Department. The weight will be proportionate to the horse's size.

318.5.6
There are no restrictions regarding the breed of the horse to be used for the mounted unit.

318.5.7
Only geldings or mares will be allowed on the unit.

318.5.8
Horses assigned to the unit should be a minimum of 14 hands with weight proportionate to height.

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318.5.9
Any horse assigned to the unit must successfully pass the MEU Riding Test to show adaptability and proficiency in police assignments prior to deployment in any type of Departmental assignments.

318.6 MEU EQUIPMENT

All equipment shall be approved by the Department prior to use. MEU members shall be required to maintain all uniforms and equipment used in performance of their duties regardless of whether the equipment is issued or privately owned. All equipment shall be kept clean and in good repair. Damage to Department issued equipment will be reported in writing on an Employees Report (15.7) to the MEU Supervisor as soon as practical.

The duty uniform shall consist of the following:

1. Hat – Black felt western style with official police cap piece or approved MEU baseball cap
2. Shirt – Class B short or long sleeve (5.11 tactical PDU)
3. Pants – Black wrangler straight leg jeans
4. Boots – Black roper style
5. Pin – Silver crossed saber pins worn on the right breast pocket above the button
6. Spurs – Plain chrome or stainless-steel western type with no ornamentation or "jingle bobs". Leather straps, plain or basket weave, black in color. Spurs will be approved by the MEU Supervisor prior to being used by an MEU Officer.
7. Duty Belt – Approved department issued Sam Browne with related gear.
8. Jacket – Regulation police or designated MEU jacket
9. Gloves (if necessary) – Black in color for patrol use and white in color for formal dress attire.

Class A Uniform will consist of all the same related gear as the duty uniform with the exception of the uniform shirt. Class A long sleeve uniform shirt shall be worn with tie for formal attire.

Whips, quirts, bats, or similar devices designed to correct or discipline the horse shall not be used/carried when on duty. Officers should be aware of public image when correcting a horse. Sometimes physical force is necessary; however, gentler methods of correcting the horse should be used whenever possible.

318.7 MEU TRAINING OPPORTUNITIES

Any officer who wishes to participate in MEU training or is interested in joining the MEU shall contact a current MEU team member or MEU supervisor. Interested officers will be allowed to attend MEU training as scheduling allows and at the discretion of their immediate supervisor and the MEU supervisor. Interested officers may be allowed to ride a horse during training, in a controlled environment, under the supervision of an MEU team member and/or supervisor.

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Officers participating in training should not be placed in a situation above their skill level or any other dangerous situation.

318.8 MEU OFFICER RESPONSIBILITIES

It shall be the responsibility of every officer/handler to perform his/her duties as required or directed by law, departmental rule, police, or by order of a superior officer and to:

(a) Be responsible for the training, exercising, care and health, and well-being of their horses and related equipment that conforms to department specifications.

(b) Maintain his/her service and training equipment in a clean and orderly manner, and in a manner that conforms to department specifications.

(c) Respond (when authorized) to all radio calls when and where the unit's presence will further police objectives.

(d) Provide timely back up and assistance to other police units as needed.

(e) Maintain required standards of proficiency related to horsemanship, equitation, and all other MEU functions.

(f) MEU Officers will not position their horses so close to a person, sitting or lying on the ground, as to constitute a hazard. The officer must be aware of the limitations of their horse and refrain from using their horse in any situation which may result in injury to the rider, horse, civilian(s), property, or bring discredit to the Department.

(g) Prisoners shall not be transported on horseback, or led with a lead rope or other device.

(h) MEU Officers shall not gallop a horse unless:

1. An emergency exists, such as an officer needing immediate assistance.

2. Due regard is given to the safety and welfare of citizens and the horse.

(a) When an officer is dismounted, citizens generally shall not be allowed to approach or touch the horse.

(b) Prepare and file all appropriate reports, logs and remaining forms pertinent to his/her MEU related activity. MEU members will also be responsible for documenting monthly training on the appropriate MEU training evaluation forms.

(c) Any property damage or injury caused by the MEU officer or their horse, which occurs either on or off-duty, shall be documented utilizing current department protocols.

(d) MEU Officers will make every attempt to prevent horses from defecating or urinating on sidewalks, crosswalks, or any other areas commonly used for pedestrian traffic. If the horse begins to urinate, the officer will attempt to move the horse to an appropriate location. If the horse defecates, the officer will remove the manure from the area of travel (safety permitting), and place the manure into a trash can, or some other acceptable location

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318.8.1 CARE FOR THE HORSE AND EQUIPMENT

MEU members shall ultimately be responsible for the health and welfare of the horses and shall ensure that the horse receives proper nutrition, grooming, training, medical care, affection, and living conditions. MEU members will be responsible for the following:

(a) Unless required by a particular application, the MEU member shall not expose the horse to any foreseeable and unreasonable risk of harm.

(b) MEU horses will be personally owned by each individual MEU member. MEU members will be responsible for finding a suitable boarding location for their horse at either their home or boarding facility.

(c) MEU members shall maintain all department equipment under his/her control in a clean and serviceable condition. MEU horse trailer(s) will preferably be stored at the same location as the horses for ease of transportation and access to equipment. Site security to prevent theft and/or damage to City property will also be considered.

(d) Any vehicle(s) assigned to the MEU may be stored off site from the Department in the regular course of duty.

(e) MEU Supervisor shall also be permitted to conduct spontaneous on-site inspections of the stable to verify that conditions and equipment conform to this policy.

(f) It shall be the responsibility of the MEU officer to keep their horse in such physical condition to be able to perform the duties expected of a police horse.

(g) Police horses should be fed prior to beginning their duty shift or after they have finished working. In the event this is impractical, the horse should be allowed to graze during down times or breaks to allow adequate feeding.

(h) Police horses shall be bathed and groomed prior to all deployments and/or appearances. The mane shall be pulled so it lays evenly along the neck. The horse's tail, mane, and forelock will be brushed and free of mats and tangles. The horses are to be thoroughly examined by the officer during regular grooming. Such examinations shall include eyes, ears, mouth, nostrils, feet, and general body condition.

318.8.2 MEU HORSES IN PUBLIC AREAS

All MEU horses shall be in direct control by an MEU officer at all times. Exceptions to this include specific police operations or other exigent circumstances that may make it unavoidable.

(a) Horses may be tied to a pole, rail, or other suitable location during police activity to allow the MEU officer to operate independently of the horse. The horse shall be tied in such a way to prevent the horse from becoming loose in public.

(b) Horses may also be tied to a pole, rail, or other suitable location while taking breaks during a deployment. The horses must be under direct supervision of an MEU Officer at all times and placed in a location to limit access by the public, wherever possible.

(c) MEU horses will not be allowed to be fed anything by citizens. If water is needed, the officer will obtain it themselves to ensure purity.

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318.9 MEDICAL CARE OF THE HORSE

All routine medical care shall be rendered by the MEU Officer's primary veterinarian, except during an emergency as provided in Policy Manual § 317.9.2.

318.9.1 NON-EMERGENCY MEDICAL CARE

Non-emergency medical care will be coordinated through the MEU Supervisor and/or MEU Officer.

Any indication that a horse is not in good physical condition or unavailable for training or deployment shall be reported to the MEU Supervisor as soon as practical.

All records of medical treatment shall be maintained by the designated horse veterinarian.

318.9.2 EMERGENCY MEDICAL CARE

The MEU Officer shall notify the MEU Supervisor as soon as practical when emergency medical care for the horse is required.

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

Specific authorization must be obtained by the Chief of Police or designee in cases where the level of medical/veterinary service is anticipated to exceed $3,000.

318.10 TRAINING

Before assignment in the field, each MEU Officer and horse shall be trained and certified to meet current POST guidelines. Due to the limited availability of POST certified mounted courses, an officer may be allowed to deploy in the field under the supervision of an experienced MEU Officer or POST certified mounted instructor prior to completing POST training. The officer must have previously completed NBPD MEU training and successfully passed the MEU Riding Test. The MEU Supervisor will make a recommendation to the MEU Lieutenant prior to any officer being allowed to deploy in the field.

The MEU Supervisor shall be responsible for scheduling periodic training for all department members in order to familiarize them with how to conduct themselves in the presence of department horses.

318.10.1 CONTINUED TRAINING

The Department recognizes training with a police horse is an ongoing task. Consistent and frequent training is essential for each MEU team to keep their skills current. POST courses shall be considered to refresh MEU team skills when available. Additional training considerations are as follows:

317.10.1.1 MEU teams are encouraged to engage in additional training with approval of the MEU Supervisor.

317.10.1.2 To ensure all training is consistent, MEU teams should practice the skills and techniques learned through POST training courses. This training should include horsemanship,

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desensitization of horses to urban environments, equitation, patrol skills, and baton skills. No officer, trainer, or outside vendor is authorized to train to a standard that is contrary to the policies of the Newport Beach Police Department.

317.10.1.3 All MEU training should be conducted while on-duty whenever possible, unless otherwise approved by the MEU Supervisor or Lieutenant. Training may be conducted at the approved boarding facility or other suitable location for equine training.

317.10.1.4 All MEU training records shall be maintained in the MEU training file.

318.11 MEU SUPERVISOR RESPONSIBILITIES

The MEU Supervisor shall be appointed by staff and shall supervise the MEU Program. The MEU Supervisor shall be responsible for, but not limited to, the following:

(a) Review all MEU related reports to ensure compliance with policy and to identify training issues and other needs for the program.

(b) Maintain liaison with the MEU member's boarding facility.

(c) Maintain liaison with the administrative staff and functional supervisors

(d) Maintain liaison with other agency MEU supervisors.

(e) Maintain accurate records to document MEU activities.

(f) Recommend and oversee the procurement of needed equipment and services for the unit.

(g) Be responsible for scheduling all MEU related activities.

(h) Ensure the MEU teams are scheduled for continuous training to maximize the capabilities of each team.

318.12 NBPD MEU VOLUNTEER PROGRAM

PURPOSE AND SCOPE

The Newport Beach Police Department MEU Volunteer Program is comprised of NBPD Volunteers who have already successfully completed the necessary background checks to become a police volunteer. The objective of the MEU Volunteer Program is to support the operations of the Department, the MEU Program, and promote community service through positive public relations.

318.12.1 POLICY

All NBPD MEU Volunteers must meet the same standards and qualifications as an MEU Officer in regards to riding proficiency and horse selection. MEU Volunteers must also have prior equine experience and be familiar with all current NBPD Volunteer policies and procedures. Only approved and qualified MEU Volunteers may participate in any MEU related activities in a mounted capacity or assist with any MEU public demonstrations/appearances.

318.12.2 GOALS AND OBJECTIVES

MEU Volunteers will use their equestrian training and experience to participate in Department operations that are authorized by State law and Department directives. MEU Volunteers have

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no peace officer powers and will only be allowed to participate in activities in a non-enforcement capacity. MEU Volunteers are to observe and notify on-duty NBPD Officers of any suspicious activity, circumstances, incidents, or criminal activity without becoming involved.

Such deployments may include, but are not limited to:

1. Mounted Patrol of:

(a) City beaches, parks, and other recreational areas

(b) Shopping centers and parking areas

(c) Equestrian and hiking trails

1. Search and rescue missions

2. Community relations presentations such as static displays (National Night Out, Citizen's Academy, Police Association Breakfast) and/or parades

3. Deployments as directed by the Chief of Police or designee

318.12.3 ORGANIZATION

An NBPD MEU Volunteer is a qualified Department trained and certified volunteer for the Newport Beach Police Department in a part-time, uncompensated position. MEU Volunteers are at-will volunteers of the Department and may be removed at any time without cause. MEU Volunteers are also governed by the conduct and behavior as all other employees of the Department. All MEU Volunteers shall maintain a neat and clean appearance in accordance with existing policies and procedures regarding uniform standards and appearance.

MEU Volunteers will be considered for appointment on an as needed basis and subject to the approval of the Chief of Police, with a recommendation from the MEU Supervisor.

318.12.4 OPERATIONS

Training for MEU Volunteers shall be the responsibility of the MEU Program. The MEU Supervisor and/or MEU team member(s) will facilitate training specific to the role of an MEU Volunteer. MEU Volunteers will not be authorized to participate in OCRMEU monthly trainings other than in a ground support function. Training for MEU Volunteers will occur quarterly throughout the year and should minimally include:

1. Horsemanship and equitation skills

2. Sensory training for the horse and rider

3. Scenario based training for field situations

An MEU Volunteer shall provide their own horse and will be responsible for the care and maintenance of the horse at their own expense. All horses shall be subject to the same selection criteria and requirements as those in the MEU Program. MEU Volunteers will also provide their own saddle, bridle and any other horse related tack. NBPD uniforms and MEU specific equipment will be provided by the Department (saddle pad with MEU logo, breast collar with volunteer mount badge, saddle bags, halter, cantle bag).

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MEU Volunteers will also be required to pass the MEU riding proficiency/skills test on an annual basis. In the event an MEU Volunteer does not pass the annual qualification test, a remedial test may be taken at the discretion of the MEU team member or Supervisor. An MEU Volunteer will not be allowed to participate in any MEU related activities until they have successfully passed the annual qualification.

318.12.5 SEPARATION FROM MEU VOLUNTEER PROGRAM

Upon resignation or termination from the MEU Volunteer Program, the volunteer shall return all uniform items; patches, badges and equipment issued to him/her by the Department.

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Canines

319.1 PURPOSE AND SCOPE

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

319.2 GUIDELINES FOR THE USE OF CANINES

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

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

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

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

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

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

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

319.2.1 PREPARATION FOR UTILIZING A CANINE

A canine handler shall have the ultimate authority not to deploy the dog. The handler will evaluate each situation and determine if the use of a canine is technically feasible. Generally, the decision whether to deploy the dog shall remain with the handler. However, a supervisor sufficiently apprised of the situation may decide not to deploy the dog.Prior to the use of a canine to search for or apprehend any individual, the canine handler and/or the supervisor on-scene should carefully consider all pertinent information that is reasonably available at the time. The information should include but is not limited to the following:

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

(b) The nature of the suspected offense.

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

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

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

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

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.

319.2.2 WARNINGS GIVEN TO ANNOUNCE THE USE OF A CANINE

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

319.2.3 USE OF NARCOTIC-DETECTION CANINES

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

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

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

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

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

319.2.4 GUIDELINES FOR NON-APPREHENSION USE

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

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

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

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

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

319.2.5 REPORTING CANINE USE, BITES AND INJURIES

Whenever the police service dog is deployed, a Canine Use Report shall be completed by the handler and turned in to the Canine Unit Supervisor or Watch Commander.

If a bite or injury results from the use of the canine, the handler shall request paramedics and notify the Watch Commander immediately. Examination and/or treatment at a medical facility are required when there is any visible injury or complaint of pain. The Watch Commander shall assign a supervisor to investigate the incident and photographs of the bite or injury shall be taken.

The Canine Unit Supervisor shall be notified as soon as practical and shall complete the Bite/Injury report upon his or her return to duty. The bite report shall summarize the incident, identify the officer(s) and arrestee(s) involved, and describe any injuries. A chronical narrative of the incident shall describe the tactics employed, warnings given, witness statements, medical treatment, arrestee interview, and any other pertinent details. A determination as to whether the use of force was within policy will be made in a conclusion. This determination shall be made based upon the facts and circumstances known to the officer at the time of the incident.

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

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

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

All bites require that the canine handler complete a Canine Use Report and any other associated report(s) of the incident. All witnesses should be identified and interviewed if possible.

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

319.2.6 REPORTING CANINE INJURIES

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

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

The injury will be documented by a designated veterinarian record and that record will be maintained by the veterinarian.

319.2.7 ASSIGNMENT OF CANINES

The canine teams shall be assigned to the Patrol/Traffic Division and should be in the direct supervision of a CRU Sergeant when personnel permits. Canine teams should function primarily as cover units but may be assigned by the Watch Commander to other functions as needed. It's the expectation that handlers remain active throughout their shifts conducting enforcement stops, responding to calls, affecting arrests, and assisting fellow officers.

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

Although the primary role of the canine team is to serve general patrol, the expectation is they will be a member of CRU. Canine teams will be expected to train with CRU as long as deployment needs are met. Canine teams will be expected to complete a POST certified SWAT school within the first eighteen month of appointment. Canine team members appointed prior to 01/01/2025 are exempt.

319.2.8 INJURY OR INCAPACITATION OF CANINE HANDLER

Police service dogs shall not be handled by anyone other than canine trained and certified personnel. Should a handler become injured or incapacitated with the canine present, officers should attempt the following prior to rendering medical aid or assistance to the handler:

Obtain clearance from the handler to approach and secure the canine.

If clearance is not obtained, attempt to call the dog to a secure location; capture the dog with a control device; or contact another canine handler to secure the canine.

319.3 REQUEST FOR USE OF CANINE TEAMS

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

319.3.1 REQUEST ASSISTANCE FROM OUTSIDE AGENCIES

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

(a) Canine teams shall not be used for any assignment that is not consistent with this policy.

(b) The handler has the ultimate authority to decide whether the canine should be used for any specific assignment.

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(c) Canine teams shall not be called out while off-duty or used outside the boundaries of the City of Newport Beach: unless authorized by the Watch Commander, a Field Supervisor, or the Canine Unit Supervisor.

(d) It shall be the responsibility of the canine handler to coordinate with outside agency personnel in order to minimize the risk of unintended injury.

(e) Canine handler will work their dogs under the guidelines set forth by this Department and NOT that of an Outside Agency.

319.3.2 REQUEST FOR PUBLIC DEMONSTRATIONS

All public requests for a canine team shall be approved by the Canine Unit Supervisor prior to making any commitment. Handlers shall not demonstrate any apprehension work to the public unless authorized to do so by the Canine Unit Supervisor. The Office of the Chief of Police shall approve all information and statistics on the unit's performance for public use.

319.3.3 EMERGENCY REQUESTS FOR CANINE TEAMS

A Supervisor and/or Watch Commander may request the use of a Canine Team to help resolve any critical incident that occurs in the City of Newport Beach. Additionally, a Patrol Supervisor and/or Watch Commander may approve emergency requests from outside agencies requesting our Canine Team. A NBPD Supervisor or designee should accompany the NBPD Canine Team if leaving our jurisdiction.

If the incident occurs in Newport Beach and the NBPD Canine Team is unavailable, requestors should:

1. Obtain approval from a supervisor to request an outside agency Canine Team to the incident.

2. Contact the NBPD Canine Program Lieutenant and/or Sergeant to obtain approval for an NBPD Canine Team to respond to the incident.

3. Upon arrival, the NBPD Canine Team will assume the role of the primary Canine Team from the outside agency Canine Team.

319.4 SELECTION OF CANINE HANDLERS

Interested officers shall submit an Employees Report (Form 15.7) to the Canine Unit Supervisor stating their desire to be selected for the assignment. The minimum qualifications for the assignment of canine handler include:

(a) An officer who is currently off probation and certified to agitate is preferred..

(b) Residing in an adequately fenced single-family residence (minimum 5-foot-high fence with locking gates).

(c) A garage that can be secured and can accommodate a canine vehicle.

(d) Interested officers must be physically fit and will be required to successfully pass a physical agility test. Sick time, IOD time, and past physical records will be considered as selection criteria due to the rigors associated with K-9 training and handling.

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(e) Agreeing to be assigned to the position for an extended period of time, generally the life of the canine, and understand that a police service dog placed in the care of the handler and his/her family is a 24-hour responsibility.

(f) Must be available to assume "on-call" assignments and shift change assignments as necessary.

(g) Must have approval of all adults living in the residence to house the police service dog and department vehicle on the property.

(h) Must have good interpersonal skills to deal with the public and the ability to deal with high-risk and stressful situations in the field.

(i) Must live within 30 minutes travel time from the Newport Beach city limits. Unless approved by the Chief of Police or his/her designee.

319.4.1 CANINE AGITATOR

Any officer, other than a past or present canine handler, who wishes to participate as an agitator, must submit an Employees Report (Form 15.7) to the Canine Unit Supervisor. If selected, the officer shall undergo and successfully complete training at an approved training facility.

319.5 CANINE HANDLER RESPONSIBILITIES

It shall be the responsibility of every officer/handler to perform his/her duties as required or directed by law, departmental rule, police, or by order of a superior officer and to:

a. Respond (when authorized) to all radio calls when and where the unit’s presence will further police objectives.

b. Provide timely back up and assistance to other police units.

c. Maintain required standards of canine proficiency.

d. Maintain his/her service and training equipment in a clean and orderly manner, and in a manner that conforms to department specifications.

e. Prepare and file all appropriate reports, logs and remaining forms pertinent to his/her daily, weekly and monthly activities. Items or people located during on duty training scenarios shall be clearly listed as “Training” if documented on a Daily Field Activities Report.

f. Any property damage caused by the canine or the handler, which occurs during a canine deployment or incidentally, shall be documented on the appropriate report form(s).

319.5.1 AVAILABILITY

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

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319.5.2 CARE FOR THE CANINE AND EQUIPMENT

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

a. Unless required by a particular application, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.

b. Police service dogs should be secured in a canine vehicle or under the direct control of their handlers while at the police facility.

c. The handler shall maintain all department equipment under his/her control in a clean and serviceable condition and when not on duty shall maintain the canine unit in a garage, secured from public view.

d. Vacation kenneling will be at an approved facility and authorized by the Canine Unit Supervisor. Any boarding outside of the handler's normally scheduled vacation slots will be the financial responsibility of the handler. When boarding their canine, the handler shall inform the Unit Supervisor of the location, length of time, and point of contact.

e. Handlers shall permit the Canine Unit Supervisor to conduct spontaneous on-site inspections of affected areas of their residence as well as the canine unit, to verify that conditions and equipment conform to this policy.

f. Any changes in the living status of the handler which may affect the lodging or environment of the canine shall be reported to the Canine Unit Supervisor as soon as possible.

g. When off-duty, canines shall be maintained in kennels, provided by the City, at the homes of their handlers. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. When off-duty, canine may be left out of their kennels while under the direct control of their handlers.

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 Unit Supervisor or Watch Commander.

j. When off-duty, handlers shall not involve their canines in any activity or conduct unless approved in advance by the Canine Unit Supervisor or Watch Commander.

k. It shall be the responsibility of the canine handler to keep his service dog in such physical condition that the canine is able to perform the duties expected of a police service dog.

l. Police service dogs should be fed their daily meal at the completion of their duty shift. In the event that this is impractical, the dog should be fed at a time that will allow the maximum period possible prior to their next duty shift.

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m. Police service dogs shall be groomed daily and are to be thoroughly examined by their handler. Such examinations shall include eyes, ears, mouth, nostrils, feet, and general body condition.

319.5.3 CANINE IN PUBLIC AREAS

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

a. Canines shall not be left unattended in any area to which the public may have access.

b. When the canine unit is left unattended all windows and doors shall be secured in such a manner as to prevent unauthorized access to the dog. The handler shall also insure that the unattended unit remains inhabitable for the canine and shall check on the status of the canine at least every 30 minutes.

319.5.4 HANDLER COMPENSATION

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

319.6 MEDICAL CARE OF THE CANINE

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

319.6.1 NON-EMERGENCY MEDICAL CARE

Non-emergency medical care will be coordinated through the Canine Unit Supervisor and/or Canine Handler.

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

All records of medical treatment shall be maintained by the designated canine veterinarian. Copies of all veterinarian records shall be maintained by the handler, and copies provided to the Canine Unit Supervisor.

319.6.2 EMERGENCY MEDICAL CARE

The handler shall notify the Watch Commander and/orCanine Unit Supervisor as soon as practical when emergency medical care for the canine is required.

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

Specific authorization must be obtained by the Patrol/Traffic Division Commander in cases where the level of medical/veterinary service is anticipated to exceed $3,000.

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319.7 TRAINING

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

The Canine Unit Supervisor shall be responsible for scheduling periodic training for all department members in order to familiarize them with how to conduct themselves in the presence of department canines.

In the event a canine handler is on long term leave (1 month) for an injury, administrative action, or FMLA, or extended vacation, they shall not be permitted to return to duty with their canine until they have been evaluated by a trainer. If a handler has been out of service for over 6 months then a patrol re-certification will be required prior to deploying the K9.

319.7.1 CONTINUED TRAINING

Each canine team shall thereafter be recertified to a current POST, CNCA, or other recognized and approved certification standards on an annual basis. Additional training considerations are as follows:

(a) Canine teams should receive training as defined in the current contract with the Newport Beach Police Department canine training provider.

(b) Canine handlers are encouraged to engage in additional training with approval of the Canine Unit Supervisor.

(c) To ensure that all training is consistent, no handler, trainer, or outside vendor is authorized to train to a standard that is contrary to the policies of the Newport Beach Police Department.

(d) All canine training shall be conducted while on-duty unless otherwise approved by the Canine Unit Supervisor or Watch Commander. Training should not be conducted in a privately-owned residence or business without the permission of the owner of the property and authorization from the Canine Unit Supervisor.

319.7.2 FAILURE TO SUCCESSFULLY COMPLETE POST TRAINING

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

319.7.3 TRAINING RECORDS

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

319.7.4 CONTROLLED SUBSTANCE TRAINING AIDS

Officers acting in the performance of their official duties may possess or transfer controlled substances for the purpose of narcotics-detection canine training in compliance with state and federal laws (Health & Safety Code § 11367.5; 21 USC § 823(g)).

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The Chief of Police or the authorized designee may authorize a member to seek a court order to allow controlled substances seized by the Newport Beach Police Department to be possessed by the member or a narcotics-detection canine trainer who is working under the direction of this department for training purposes, provided the controlled substances are no longer needed as criminal evidence.

As an alternative, the Chief of Police or the authorized designee may request narcotics training aids from the Drug Enforcement Administration (DEA).

These procedures are not required if the canine handler uses commercially available synthetic substances that are not controlled narcotics.

319.8 CANINE UNIT SUPERVISOR RESPONSIBILITIES

The Canine Unit Supervisor shall be appointed by staff and shall supervise the Canine Program. The Canine Unit Supervisor shall be responsible for, but not limited to, the following:

a. Review all Canine Use Reports to ensure compliance with policy and to identify training issues and other needs for the program.

b. Maintain liaison with the vendor kennel.

c. Maintain liaison with the administrative staff and functional supervisors.

d. Maintain liaison with other agency canine supervisors.

e. Maintain accurate records to document canine activities.

f. Recommend and oversee the procurement of needed equipment and services for the unit.

g. Be responsible for scheduling all canine related activities.

h. Ensure the canine teams are scheduled for continuous training to maximize the capabilities of the team.

319.8.1 CANINE HANDLER RESPONSIBILITIES

It shall be the responsibility of every officer/handler to perform his/her duties as required or directed by law, departmental rule, police, or by order of a superior officer and to:

a. Respond (when authorized) to all radio calls when and where the unit’s presence will further police objectives.

b. Provide timely back up and assistance to other police units.

c. Maintain required standards of canine proficiency.

d. Maintain his/her service and training equipment in a clean and orderly manner, and in a manner that conforms to department specifications.

e. Prepare and file all appropriate reports, logs and remaining forms pertinent to his/her daily, weekly and monthly activities. Items or people located during on duty training

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scenarios shall be clearly listed as “Training” if documented on a Daily Field Activities Report.

f. Any property damage caused by the canine or the handler, which occurs during a canine deployment or incidentally, shall be documented on the appropriate report form(s).

319.9 CONTROLLED SUBSTANCE TRAINING AIDS

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

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

a. To any duly authorized peace officer or civilian drug detection canine trainer working under the direction of a law enforcement agency.

b. Provided the controlled substances are no longer needed as criminal evidence.

c. Provided the person receiving the controlled substances, if required by the Drug Enforcement Administration, possesses a current and valid Drug Enforcement Administration registration that specifically authorizes the recipient to possess controlled substances while providing substance abuse training to law enforcement or the community or while providing canine drug detection training.

319.9.1 PROCEDURES

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

a. The Orange County Crime Lab may issue each narcotic trained canine team narcotic substances in the following amounts: Cocaine 1 ounce, Heroin 1 ounce, Methamphetamine 1 ounce, and/or their derivatives.

b.The Orange County Crime Lab will conduct a presumptive test on Cocaine, Methamphetamine, and Heroin, or their derivatives, prior to issuing the narcotics.

c. Each substance shall be weighed and witnessed by Orange County Crime Lab. The handler will sign for the substances on the Orange County Crime Lab property log.

d. An inventory, including the weighing and testing of the issued substances will be conducted every 6 months or at random intervals as requested by the Canine Unit Supervisor. The Canine Unit Supervisor and the canine handler will witness this inventory and testing. The results will be recorded in the property log. Narcotics will be rotated every two years to ensure scent suitability for training. Returned narcotics will be destroyed by the Orange County Crime Lab’s evidence destruction procedures.

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e. In the event a narcotic substance is lost, stolen, or destroyed the canine handler will immediately notify the Canine Unit Supervisor or Watch Commander and ensure all appropriate crime or employee reports are completed.

f. Each substance will be maintained in individual packages, suitable for training. When transporting the narcotic, it will be stored in a locked metal container that will be bolted to the canine vehicle. The narcotics will remain locked in this container unless they are being used in training. The canine handler and the Canine Unit Supervisor shall maintain the combination to the storage containers.

g. Any unusable controlled substance training samples shall be returned to the Orange County Crime Lab.

319.9.2 IMMUNITY

All duly authorized peace officers acting in the performance of their official duties and any person working under their immediate direction, supervisor or instruction are immune from prosecution under the Uniform Controlled Substance Act while providing substance abuse training or canine drug detection training (Health & safety Code § 11367(b)).

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Hate Crimes

320.1 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 Newport Beach 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; Penal Code § 422.87).

320.1.1 DEFINITION AND LAWS

In accordance with Penal Code § 422.55; Penal Code § 422.56; Penal Code § 422.6; and Penal Code § 422.87, for purposes of all other state law, unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

Bias motivation - Bias motivation is a pre-existing negative attitude toward actual or perceived characteristics referenced in Penal Code § 422.55. Depending on the circumstances of each case, bias motivation may include but is not limited to hatred, animosity, discriminatory selection of victims, 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

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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, regardless of whether it is stereotypically associated with the person's assigned sex at birth.

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

Hate crime - "Hate crime" includes but is not limited to a violation of Penal Code § 422.6, and means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

(a) Disability

(b) Gender

(c) Nationality

(d) Race or ethnicity

(e) Religion

(f) Sexual orientation

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

1. "Association with a person or group with one or more of these actual or perceived characteristics" includes advocacy for, identification with, or being on the premises 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 the characteristics listed in the definition of "hate crime" under paragraphs 1 to 6, inclusive, of Penal Code § 422.55(a).

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

Hate incident - A hate incident is an action or behavior motivated by hate or bias but legally protected by the First Amendment right to freedom of expression. Examples of hate incidents include:

- Name-calling
- Insults and epithets
- Distributing hate material in public places

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- 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:

- Fighting words
- True threats
- Perjury
- Blackmail
- Incitement to lawless action
- Conspiracy
- Solicitation to commit any crime

In whole or in part - "In whole or in part because of" means that the bias motivation must be a cause in fact of the offense whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that a crime would not have been committed but for the actual or perceived characteristic.

Nationality - Nationality means country of origin, immigration status, including citizenship, 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.

Religious bias - In recognizing suspected religion-bias hate crimes, officers should consider whether there were targeted attacks on, or biased references to, symbols of importance to a particular religion or articles considered of spiritual significance in a particular religion (e.g., crosses, hijabs, Stars of David, turbans, head coverings, statues of the Buddha).

Sexual orientation - Sexual orientation means heterosexuality, homosexuality, or bisexuality.

Victim - Victim includes but is not limited to:

- Community center
- Educational facility
- Entity
- Family
- Group
- Individual
- Office

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- Meeting hall
- Person
- Place of worship
- Private institution
- Public agency
- Library
- Other victim or intended victim of the offense

320.2 POLICY

It is the policy of this department to safeguard the rights of all individuals irrespective of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, and/or association with a person or group with one or more of these actual or perceived characteristics. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate or bias should be viewed very seriously and given high priority.

This department will employ reasonably available resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, this department should take all reasonable steps to attend to the security and related concerns of the immediate victims and their families as feasible.

All officers are required to be familiar with the policy and use reasonable diligence to carry out the policy unless directed by the Chief of Police or other command-level officer to whom the Chief of Police formally delegates this responsibility.

320.3 PLANNING AND PREVENTION

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

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

320.3.1 HATE CRIMES COORDINATOR

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

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(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, Islamic, lesbian, gay, bisexual, transgender, and queer or questioning (LGBTQ), Black, Native American, immigrant, Jewish, Asian American, and Pacific Islander communities (Penal Code § 13519.6(b)(8)).

(h) Providing orientation of and with communities of specific targeted victims such as immigrant, Muslim, Arab, LGBTQ, Black or African-American, Jewish, and Sikh persons and persons with disabilities.

(i) Coordinating with the Training Manager to develop a schedule of required hate-crime training and include in a training plan recognition of hate crime bias characteristics, including information on general underreporting of hate crimes.

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

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

    1. Ensure the California Department of Justice crime data is posted monthly on the department website (Penal Code § 13023).

(l) Reporting any suspected multi-mission extremist crimes to the department 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 Section Policy.

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

(n) Submitting required hate crime materials to the California Department of Justice in accordance with the timeline established by state law (Penal Code § 13023).

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(o) Annually assessing this policy, including:

1. Keeping abreast of POST model policy framework for hate crimes for revisions or additions, including definitions, responsibilities, training resources, the supplemental hate crime report, 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.

320.3.2 RELEASE OF INFORMATION

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

The benefit of public disclosure of hate crime incidents includes:

(a) Dissemination of correct information.

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

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

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

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

- Inform community organizations in a timely manner when a community group has been the target of a hate crime.
- Inform the community of the impact of these crimes on the victim, the victim’s family, and the community, and of the assistance and compensation available to victims.
- Inform the community regarding hate crime law and the legal rights of, and remedies available to, victims of hate crimes.
- Provide the community with ongoing information regarding hate crimes and/or hate incidents.

320.4 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

320.4.1 INITIAL RESPONSE

First responding officers should know the role of all department personnel as they relate to the department's investigation of hate crimes and/or incidents. Responding officers should evaluate

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the need for additional assistance and, working with supervision and/or investigations, access needed assistance if applicable.

At the scene of a suspected hate or bias crime, officers should take preliminary actions reasonably deemed necessary, including but not limited to the following:

(a) Use agency checklist (per Penal Code § 422.87) to assist in the investigation of any hate crime (see Appendix).

(b) Stabilize the victims and request medical attention when necessary.

(c) Properly protect the safety of victims, witnesses, and perpetrators.

    1. Assist victims in seeking a Temporary Restraining Order (if applicable).

(d) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.

(e) Properly protect, preserve, and process the crime scene, and remove all physical evidence of the incident as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed, the property owner should be contacted to facilitate removal or covering as soon as reasonably possible. Department personnel should follow up with the property owner to determine if this was accomplished in a timely manner.

(f) Collect and photograph physical evidence or indicators of hate crimes such as:

    1. Hate literature.

    2. Spray paint cans.

    3. Threatening letters.

    4. Symbols used by hate groups.

(g) Identify criminal evidence on the victim.

(h) Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.

(i) Conduct a preliminary investigation and record pertinent information including but not limited to:

    1. Identity of suspected perpetrators.

    2. Identity of witnesses, including those no longer at the scene.

    3. The offer of victim confidentiality per Government Code § 7923.615.

    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.

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(j) Adhere to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.

(k) Provide information regarding immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).

(l) Provide the department's Hate Crimes Brochure (per Penal Code § 422.92) if asked, if necessary, or per policy.

(m) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).

(n) Document any suspected multi-mission extremist crimes.

320.4.2 INVESTIGATION

Investigators at the scene of, or performing follow-up investigation on, a suspected hate or bias crime or hate incident should take all actions deemed reasonably necessary, including but not limited to the following:

(a) Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).

(b) Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.

(c) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).

(d) Properly investigate any report of a hate crime committed under the color of authority per Penal Code § 422.6 and Penal Code § 13519.6.

(e) Document physical evidence or indicators of hate crimes, in accordance with the provisions of the Property and Evidence Policy, such as:

1. Hate literature.
2. Spray paint cans.
3. Threatening letters.
4. Symbols used by hate groups.
5. Desecration of religious symbols, objects, or buildings.

(f) Request the assistance of translators or interpreters when needed to establish effective communication.

(g) Conduct a preliminary investigation and record information regarding:

1. Identity of suspected perpetrators.
2. Identity of witnesses, including those no longer at the scene.
3. Offer of victim confidentiality per Government Code § 7923.615.

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4. Prior occurrences, in this area or with this victim.
5. Statements made by suspects; exact wording is critical.
6. Document the victim's protected characteristics.

(h) Provide victim assistance and follow-up.

(i) Canvass the area for additional witnesses.

(j) Examine suspect's social media activity for potential evidence of bias motivation.

(k) Coordinate the investigation with department, state, and regional intelligence operations. These sources can provide the investigator with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.

(l) Coordinate the investigation with the crime scene investigation unit (if applicable) or other appropriate units of the Department.

(m) Determine if the incident should be classified as a hate crime.

(n) Take reasonable steps to provide appropriate assistance to hate crime victims, including the following measures:

1. Contact victims periodically to determine whether they are receiving adequate and appropriate assistance.
2. Provide ongoing information to victims about the status of the criminal investigation.
3. Provide victims and any other interested persons the brochure on hate crimes per Penal Code § 422.92 and information on any local advocacy groups (if asked).

(o) Document any suspected multi-mission extremist crimes.

(p) Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents, and determine if organized hate groups are involved.

320.4.3 SUPERVISION

The supervisor shall confer with the initial responding officer and take reasonable steps to ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

(a) Provide immediate assistance to the crime victim by:

1. Expressing the department's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
2. Expressing the department's interest in protecting victims' anonymity (confidentiality forms, Government Code § 7923.615) to the extent reasonably possible. Allow the victims to convey their immediate concerns and feelings.
3. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy, or a department chaplain, as well as community service

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agencies that provide shelter, food, clothing, child care, or other related services (per Penal Code § 422.92).

(b) Take reasonable steps to ensure that all relevant facts are documented on an incident and/or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.

(c) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.

(d) In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning an officer to specific locations that could become targets).

(e) Verify hate crimes are being properly reported, including reporting to the Department of Justice, pursuant to Penal Code § 13023.

(f) Verify adherence to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).

(g) Respond to and properly initiate an investigation of any reports of hate crimes committed under the color of authority.

(h) Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For additional information refer to the California Department of Justice website.

(i) Verify reporting of any suspected multi-mission extremist crimes to the agency Hate Crimes Coordinator.

(j) Make a final determination as to whether the incident should be classified as a hate crime and forward to the Chief of Police for approval.

320.5 TRAINING

All members of this department will receive POST-approved training on hate crime recognition and investigation (Penal Code § 13519.6).

Training should include (Penal Code § 422.87):

(a) Recognition of bias motivators such as ranges of attitudes and perceptions toward a specific characteristic or group, including disability bias, gender bias, and religion bias.

(b) Accurate reporting by officers, including information on the general underreporting of hate crimes.

(c) Distribution of hate crime brochures.

(d) When a gun violence restraining order may be appropriate for prevention of hate crimes (Penal Code § 13519.6).

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320.6 APPENDIX

See attachments:

Statutes and Legal Requirements.pdf

Hate Crime Checklist.pdf

Supplemental Hate Crime Report.pdf

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Domestic Violence

321.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence.

321.1.1 DEFINITIONS

Definitions related to this policy include:

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

321.2 POLICY

The Newport Beach Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

321.3 PUBLIC ACCESS TO POLICY

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

321.4 OFFICER SAFETY

The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

321.5 INVESTIGATIONS

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

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

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

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1. A lethality assessment should be administered to victims of domestic violence to assess the level of danger and/or the severity of the situation and attached to the appropriate report.

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

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

(e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Detective Division in the event that the injuries later become visible.

(f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.

(g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate.

(h) Seize any firearms, other dangerous weapons, ammunition, or body armor in the home, if appropriate and legally permitted, for safekeeping or as evidence. If the domestic violence involved threats of bodily harm, any firearm discovered in plain view or pursuant to consent or other lawful search must be taken into temporary custody (Penal Code § 18250).

(i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.

(j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:

1. Whether the suspect lives on the premises with the victim.
2. Claims by the suspect that the victim provoked or perpetuated the violence.
3. The potential financial or child custody consequences of arrest.
4. The physical or emotional state of either party.
5. Use of drugs or alcohol by either party.
6. Denial that the abuse occurred where evidence indicates otherwise.
7. A request by the victim not to arrest the suspect.

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8. Location of the incident (public/private).
9. Speculation that the complainant may not follow through with the prosecution.
10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
11. The social status, community status, or professional position of the victim or suspect.

321.5.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

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

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

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

321.5.2 IF NO ARREST IS MADE

If no arrest is made, the officer should:

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

1. Voluntary separation of the parties.
2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).

(b) Document the resolution in a report.

321.5.3 ARRESTING OFFICER'S RESPONSIBILITIES REGARDING FIREARMS

If a suspect is arrested, officers shall (Penal Code § 273.76):

(a) Query the Automated Firearms System through the California Law Enforcement Telecommunications System (CLETS) for any firearms owned or possessed by the arrestee.

1. The investigating or filing officer shall include a copy of the Automated Firearms System report when filing the case with the district attorney or prosecuting city attorney.

(b) Ask the arrestee, victim, and any other household members, if applicable, about any firearms owned or possessed by the arrestee.

(c) Ensure that any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search is taken into temporary custody pursuant to Penal Code § 18250.

(d) Document in the arrest report the detailed actions taken required by Penal Code § 273.76.

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321.6 STANDARDS FOR ARRESTS

Officers investigating a domestic violence report should consider the following:

(a) An arrest should be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is probable cause to do so requires supervisor approval.

1. Officers are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the officer makes the arrest as soon as probable cause arises (Penal Code § 836).

(b) An officer responding to a domestic violence call who cannot make an arrest will advise the victim of his/her right to make a private person's arrest. The advisement should be made out of the presence of the suspect and shall include advising the victim how to safely execute the arrest. Officers shall not dissuade victims from making a lawful private person's arrest. Officers should refer to the provisions in the Private Persons Arrests Policy for options regarding the disposition of private person's arrests (Penal Code § 836(b)).

(c) Officers shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)):

1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)
2. Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender's child)
3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
4. Penal Code § 646.9 (stalking)
5. Other serious or violent felonies specified in Penal Code § 1270.1

(d) In responding to domestic violence incidents, including mutual protective order violations, officers should generally be reluctant to make dual arrests. Officers shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person who has been determined to be the most significant, rather than the first, aggressor (Penal Code § 13701). In identifying the dominant aggressor, an officer shall consider:

1. The intent of the law to protect victims of domestic violence from continuing abuse.
2. The threats creating fear of physical injury.
3. The history of domestic violence between the persons involved.
4. Whether either person acted in self-defense.

(e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 13701; Penal Code

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§ 836), regardless of whether the offense was committed in the officer's presence. After arrest, the officer shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).

321.7 VICTIM ASSISTANCE

Because victims may be traumatized or confused, officers should be aware that a victim's behavior and actions may be affected:

(a) Victims should be provided with the department's domestic violence information handout, even if the incident may not rise to the level of a crime.

(b) Victims should also be alerted to any available victim advocates, shelters, and community resources.

(c) When an involved person requests law enforcement assistance while removing essential items of personal property, officers should stand by for a reasonable amount of time.

(d) If the victim has sustained injury or complaints of pain, officers should seek medical assistance as soon as practicable.

(e) Officers should ask the victim whether the victim has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for the victim's safety or if the officer determines that a need exists.

(f) Officers should make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.

(g) If appropriate, officers should seek or assist the victim in obtaining an emergency order if appropriate.

321.7.1 VICTIM INFORMATION AND NOTIFICATION EVERYDAY PROGRAM

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

321.8 DISPATCH ASSISTANCE

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

Dispatchers are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

321.9 DECLARATION IN SUPPORT OF BAIL INCREASE

Any officer who makes a warrantless arrest for a felony or misdemeanor violation of a domestic violence restraining order shall evaluate the totality of the circumstances to determine whether

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reasonable cause exists to seek an increased bail amount. If there is reasonable cause to believe that the scheduled bail amount is insufficient to assure the arrestee's appearance or to protect the victim or family member of a victim, the officer shall prepare a declaration in support of increased bail (Penal Code § 1269c).

321.10 REPORTS AND RECORDS

(a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.

(b) Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.

(c) Officers who seize any firearm or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt that includes the name and residential mailing address of the owner or person who possessed the weapon and notice of where the weapon may be recovered, along with the applicable time limit for recovery (Penal Code § 18250; Penal Code § 18255; Penal Code § 33800; Family Code § 6389(c)(2)).

321.10.1 RECORD-KEEPING AND DATA COLLECTION

This department shall maintain records of court orders related to domestic violence and the service status of each (Penal Code § 13710), as well as records on the number of domestic violence related calls reported to the Department, including whether weapons were used in the incident or whether the incident involved strangulation or suffocation (Penal Code § 13730). This information is to be reported to the Attorney General monthly. It shall be the responsibility of the Records Manager to maintain and report this information as required.

321.11 RECORDS MANAGER RESPONSIBILITIES

The Records Manager is responsible for ensuring:

(a) Proof of service of any restraining order served by an officer or received from the clerk of the court is entered into 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 law enforcement officer ((Penal Code § 18115).

(b) Restraining Orders (Temporary or Emergency Protective Orders) are entered into the California Restraining and Protective Order System (Penal Code § 18140).

(c) Copies of temporary orders are filed with the court as soon as practicable, but no later than three court days, after issuance (Penal Code § 18140).

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(d) Copies of receipts of surrendered firearms or ammunition issued by other agencies for gun violence restraining orders issued by the Department are properly maintained (Penal Code § 18120).

(e) Any relinquishment of firearm rights form received from the court is entered into the California Restraining and Protective Order System within one business day of receipt (Penal Code § 18115).

321.12 COURT ORDERS

(a) An officer who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located, and shall provide the person protected or the person's parent/guardian with a copy of the order. The officer shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).

(b) At the request of the petitioner, an officer at the scene of a reported domestic violence incident shall serve a court order on a restrained person (Family Code § 6383; Penal Code § 13710).

(c) Any officer serving a protective order that indicates that the respondent possesses firearms, firearm parts, ammunition, magazines, or body armor shall request that the items be immediately surrendered (Family Code § 6389(c)(2)).

(d) During the service of a protective order any firearm, firearm parts, ammunition, magazines, or body armor discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).

(e) If a valid Canadian order cannot be enforced because the person subject to the order has not been notified or served with the order, the officer shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the order. The officer shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide him/her with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

321.12.1 VERIFICATION OF COURT ORDERS

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and where appropriate and practicable:

(a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.

1. If a determination is made that a valid foreign order cannot be enforced because the subject has not been notified or served the order, the officer shall inform the subject of the order, make a reasonable effort to serve the order upon the subject, and allow the subject a reasonable opportunity to comply with the order

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before enforcing the order. Verbal notice of the terms of the order is sufficient notice (Family Code § 6403).

(b) Check available records or databases that may show the status or conditions of the order.

1. Registration or filing of an order in California is not required for the enforcement of a valid foreign order (Family Code § 6403).

(c) Contact the issuing court to verify the validity of the order.

(d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.

321.12.2 SERVICE OF COURT ORDERS

(a) An officer who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located and shall provide the person protected or the person's parent/guardian with a copy of the order. The officer shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).

(b) A temporary restraining order, emergency protective order, or an order issued after a hearing shall, at the request of the petitioner, be served on the restrained person by an officer who is present at the scene of a reported domestic violence incident or when the officer receives a request from the petitioner to provide service of the order (Family Code § 6383; Penal Code § 13710).

(c) Any officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)).

(d) During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).

1. An officer should ensure that the Records Section is notified of any firearm obtained for entry into the Automated Firearms System (Family Code § 6383) (see the Records Section Policy for additional guidance).

(e) If a valid Canadian order cannot be enforced because the person subject to the order has not been notified or served with the order, the officer shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the order. The officer shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide the person with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

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321.12.3 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe, or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court or foreign order shall be enforced, regardless of whether the order has been properly registered with this state (Family Code § 6403).

Canadian domestic violence protection orders shall also be enforced in the same manner as if issued in this state (Family Code § 6452). Officers shall advise individuals protected by a Canadian domestic violence order of available local victim services (Family Code § 6452).

321.13 DOMESTIC VIOLENCE DEATH REVIEW TEAM

This department should cooperate with any interagency domestic violence death review team investigation. Written and oral information relating to a domestic violence death that would otherwise be subject to release restrictions may be disclosed to the domestic violence death review team upon written request and approval of a supervisor (Penal Code § 11163.3).

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Search and Seizure

323.1 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 Newport Beach Police Department personnel to consider when dealing with search and seizure issues.

323.2 POLICY

It is the policy of the Newport Beach Police Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

323.3 SEARCHES

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

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

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

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

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

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

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323.4 SEARCH PROTOCOL

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

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

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

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

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

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

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

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Temporary Custody of Juveniles

325.1 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 Newport Beach Police Department (34 USC § 11133).

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

325.1.1 DEFINITIONS

Definitions related to this policy include:

Juvenile non-offender - An abused, neglected, dependent, or alien juvenile who may be legally held for the juvenile's 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 the juvenile's protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person. Juveniles 11 years of age or younger are considered juvenile non-offenders even if they have committed an offense that would subject an adult to arrest.

Juvenile offender - A juvenile 12 to 17 years of age who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense) (Welfare and Institutions Code § 602). It also includes an offense under Penal Code § 29610 for underage possession of a handgun or concealable firearm (28 CFR 31.303).

Non-secure custody - When a juvenile is held in the presence of an officer or other custody employee at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation (Welfare and Institutions Code § 207.1; 15 CCR 1150).

Safety checks - Direct, visual observation personally by a member of this department performed at random intervals within time frames prescribed in this policy to provide for the health and welfare of juveniles in temporary custody.

Secure custody - When a juvenile offender is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object (15 CCR 1146).

Examples of secure custody include:

(a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.

(b) A juvenile handcuffed to a rail.

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(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 a non-secure booking area is available.

(e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.

(f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.

(g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

Sight and sound separation - Located or arranged to prevent physical, visual, or auditory contact that is more than brief or inadvertent.

Status offender - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation, and truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender. This includes the habitually disobedient or truant juvenile under Welfare and Institutions Code § 601 and any juvenile suspected of an offense that would not subject an adult to arrest (e.g., fine-only offense).

325.2 POLICY

The Newport Beach Police Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and keeping juveniles safe while they are in temporary custody at the Newport Beach Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer, or release.

325.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the Newport Beach Police Department:

(a) Unconscious

(b) Seriously injured

(c) A known suicide risk or obviously severely emotionally disturbed

(d) Significantly intoxicated except when approved by the Watch Commander. A medical clearance shall be obtained for minors who are under the influence of drugs, alcohol, or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).

(e) Extremely violent or continuously violent

Officers taking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation (15 CCR 1142; 15 CCR 1151).

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These juveniles should not be held at the Newport Beach Police Department unless they have been evaluated by a qualified medical and/or mental health professional (15 CCR 1142).

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

325.3.1 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY

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

325.3.2 SUICIDE PREVENTION OF JUVENILES IN CUSTODY

Department members should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to communicate, verbally threatening to kill themself, or any unusual behavior which may indicate the juvenile may harm themself while in either secure or non-secure custody (15 CCR 1142).

325.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Newport Beach Police Department when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile that is suspected of being a victim.

No juvenile should be held in temporary custody at the Newport Beach Police Department without authorization of the arresting officer's supervisor or the Watch Commander. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

Any juvenile taken into custody shall be released to the care of the juvenile's parent or other responsible adult or transferred to a juvenile custody facility or to other authority as soon as practicable and in no event shall a juvenile be held beyond six hours from the time of the juvenile's entry into the Newport Beach Police Department (34 USC § 11133; Welfare and Institutions Code § 207.1).

325.4.1 CUSTODY OF JUVENILE NON-OFFENDERS

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Newport Beach Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders shall not be held in secure custody (34 USC § 11133; Welfare and Institutions Code § 206).

Juveniles 11 years of age or younger who have committed an offense that would subject an adult to arrest may be held in non-secure custody for the offenses listed in Welfare and Institutions Code § 602(b) (murder and the sexual assault offenses) and should be referred to a probation officer for a placement determination (Welfare and Institutions Code § 602.1).

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325.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

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

325.4.3 CUSTODY OF JUVENILE OFFENDERS

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

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

A juvenile offender who is 14 years of age or older and taken into custody for committing or attempting to commit a felony with a firearm shall not be released and be transported to a juvenile facility (Welfare and Institutions Code § 625.3).

A juvenile offender suspected of committing murder, a sex offense described in Welfare and Institutions Code § 602(b) that may subject the juvenile to criminal jurisdiction under Welfare and Institutions Code § 707, or a serious or violent felony should be referred to a probation officer for a decision on further detention.

In all other cases the juvenile offender may be:

(a) Released upon warning or citation.

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

(c) Referred to a probation officer for a decision regarding whether to transport the juvenile offender to a juvenile facility.

(d) Transported to the juvenile offender's home or to the place where the juvenile offender was taken into custody (Welfare and Institutions Code § 207.2).

In determining which disposition is appropriate, the investigating officer or supervisor shall prefer the alternative that least restricts the juvenile's freedom of movement, provided that alternative is compatible with the best interests of the juvenile and the community (Welfare and Institutions Code § 626).

Whenever a juvenile offender under the age of 14 is taken into custody, the officer should take reasonable steps to verify and document the child's ability to differentiate between right and wrong, particularly in relation to the alleged offense (Penal Code § 26).

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325.5 ADVISEMENTS

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

Whenever a juvenile is taken into temporary custody, the juvenile shall be given the *Miranda* rights advisement regardless of whether questioning is intended. This does not apply to juvenile non-offenders taken into temporary custody for their safety or welfare (Welfare and Institutions Code § 625).

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

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

325.6 JUVENILE CUSTODY LOGS

Any time a juvenile is held in custody at the Department, the custody shall be promptly and properly documented in the juvenile custody log, including:

(a) Identifying information about the juvenile.

(b) Date and time of arrival and release from the Newport Beach Police Department (15 CCR 1150).

(c) Watch Commander notification and approval to temporarily hold the juvenile.

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

(e) Any changes in status (e.g., emergency situations, unusual incidents).

(f) Time of all safety checks.

(g) Any medical and other screening requested and completed (15 CCR 1142).

(h) Circumstances that justify any secure custody (Welfare and Institutions Code § 207.1; 15 CCR 1145).

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

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

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325.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department (34 USC § 11133; Welfare and Institutions Code § 207.1; Welfare and Institutions Code § 208; 15 CCR 1144). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Newport Beach Police Department (trained in the supervision of persons in custody) shall maintain a constant, immediate, side-by-side presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact (15 CCR 1144).

325.8 TEMPORARY CUSTODY REQUIREMENTS

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

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

(b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.

(c) Personal safety checks and significant incidents/activities shall be noted on the log.

(d) Juveniles in custody are informed that they will be monitored at all times, except when using the toilet.

    1. There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.

    2. This does not apply to surreptitious and legally obtained recorded interrogations.

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

(f) Juveniles shall be provided sanitary napkins, panty liners, and tampons as requested (15 CCR 1143).

(g) Food shall be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile (15 CCR 1143).

(h) Juveniles shall have reasonable access to a drinking fountain or water (15 CCR 1143).

(i) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.

(j) Juveniles shall have privacy during family, guardian, and/or lawyer visits (15 CCR 1143).

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(k) Juveniles shall be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody (15 CCR 1143).

(l) Blankets shall be provided as reasonably necessary (15 CCR 1143).

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

(m) Adequate shelter, heat, light, and ventilation should be provided without compromising security or enabling escape.

(n) Juveniles shall have adequate furnishings, including suitable chairs or benches.

(o) Juveniles shall have the right to the same number of telephone calls as an adult in temporary custody.

(p) Juveniles shall have access to language services (15 CCR 1143).

(q) Juveniles shall have access to disability services (15 CCR 1143).

(r) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation, or mental abuse (15 CCR 1142).

While held in temporary custody, juveniles shall be informed in writing of what is available to them pursuant to 15 CCR 1143 and it shall be posted in at least one conspicuous place to which they have access (15 CCR 1143).

325.9 USE OF RESTRAINT DEVICES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Newport Beach Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening (15 CCR 1142).

Other restraints shall only be used after less restrictive measures have failed and with the approval of the Watch Commander. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others (15 CCR 1142).

Juveniles in restraints shall be kept away from other unrestrained juveniles or monitored in such a way as to protect the juvenile from abuse (15 CCR 1142).

325.10 PERSONAL PROPERTY

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

The personal property of a juvenile should be placed in a property bag. The property should be inventoried in the juvenile’s presence and sealed into the bag. The property should be kept in a monitored or secure location until the juvenile is released from the custody of the Newport Beach Police Department.

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325.11 SECURE CUSTODY

Only juvenile offenders 14 years of age or older may be placed in secure custody (Welfare and Institutions Code § 207; 15 CCR 1145). Watch Commander approval is required before placing a juvenile offender in secure custody.

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to themselves or others. Factors to be considered when determining if the juvenile offender presents a serious security risk to themselves or others include the following (15 CCR 1145):

(a) Age, maturity, and delinquent history

(b) Severity of offense for which the juvenile was taken into custody

(c) The juvenile offender's behavior

(d) Availability of staff to provide adequate supervision or protection of the juvenile offender

(e) Age, type, and number of other individuals in custody at the facility

Members of this department shall not use secure custody for convenience when non-secure custody is, or later becomes, a reasonable option (15 CCR 1145).

When practicable and when no locked enclosure is available, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody. An employee must be present at all times to ensure the juvenile's safety while secured to a stationary object (15 CCR 1148).

Juveniles shall not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter (15 CCR 1148). Supervisor approval should be documented.

The decision for securing a minor to a stationary object for longer than 60 minutes and every 30 minutes thereafter shall be based upon the best interests of the juvenile offender (15 CCR 1148).

325.11.1 LOCKED ENCLOSURES

A thorough inspection of the area shall be conducted before placing a juvenile into the enclosure. A second inspection shall be conducted after removing the juvenile. Any damage noted to the room should be photographed and documented in the crime report.

The following requirements shall apply to a juvenile offender who is held inside a locked enclosure:

(a) The juvenile shall constantly be monitored by an audio/video system during the entire custody.

(b) Juveniles shall have constant auditory access to department members (15 CCR 1147).

(c) Initial placement into and removal from a locked enclosure shall be logged (Welfare and Institutions Code § 207.1).

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(d) Unscheduled safety checks to provide for the health and welfare of the juvenile by a staff member, no less than once every 15 minutes, shall occur (15 CCR 1147; 15 CCR 1151).

1. All safety checks shall be logged.
2. The safety check should involve questioning the juvenile as to the juvenile's well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
3. Requests or concerns of the juvenile should be logged.

(e) Juveniles of different genders shall not be placed in the same locked room (15 CCR 1147).

(f) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).

(g) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

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

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

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

(b) Notification of the parent, guardian, or person standing in loco parentis of the juvenile.

(c) Notification of the appropriate prosecutor.

(d) Notification of the City attorney.

(e) Notification to the coroner.

(f) Notification of the juvenile court.

(g) In the case of a death, providing a report to the Attorney General under Government Code § 12525 within 10 calendar days of the death, and forwarding the same report to the Board of State and Community Corrections (BSCC) within the same time frame (15 CCR 1046).

(h) A medical and operational review of deaths pursuant to 15 CCR 1046.

1. A copy of the review report shall be provided to BSCC within 60 days of the death (15 CCR 1046).

(i) Evidence preservation.

325.12.1 IN-CUSTODY DEATH PUBLICATION

The Chief of Police or the authorized designee should ensure that specified information relating to an in-custody death of a juvenile is posted on the department website as prescribed and within the time frames provided in Penal Code § 10008.

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325.13 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent, to an interview or interrogation.

Prior to conducting a custodial interrogation, including the waiver of *Miranda* rights, an officer shall permit a juvenile 17 years of age or younger to consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived by the juvenile (Welfare and Institutions Code § 625.6).

Threats, physical harm, deception, or psychologically manipulative interrogation tactics shall not be used by an officer during a custodial interrogation of a juvenile (Welfare and Institutions Code § 625.7).

The requirements to consult with legal counsel or to refrain from the use of prohibited interrogation techniques do not apply when (Welfare and Institutions Code § 625.6; Welfare and Institutions Code § 625.7):

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

    1. The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

325.13.1 MANDATORY RECORDINGS OF JUVENILES

Any interrogation of an individual under 18 years of age who is in custody and suspected of committing murder shall be audio and video recorded when the interview takes place at a department facility, jail, detention facility, or other fixed place of detention. The recording shall include the entire interview and a *Miranda* advisement preceding the interrogation (Penal Code § 859.5).

This recording is not mandatory when (Penal Code § 859.5):

(a) Recording is not feasible because of exigent circumstances that are later documented in a report.

(b) The individual refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.

(c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.

(d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.

(e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated, or another individual. Such circumstances shall be documented in a report.

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(f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.

(g) The questions are part of a routine processing or booking, and are not an interrogation.

(h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

These recordings shall be retained until a conviction is final and all direct and habeas corpus appeals are exhausted, a court no longer has any jurisdiction over the individual, or the prosecution for that offense is barred (Penal Code § 859.5; Welfare and Institutions Code § 626.8).

325.14 FORMAL BOOKING

No juvenile offender shall be formally booked without the authorization of the arresting officer's supervisor, or in the supervisor's absence, the Watch Commander.

Any juvenile 14 years of age or older who is taken into custody for a felony, or any juvenile whose acts amount to a sex crime, shall be booked, fingerprinted, and photographed.

For all other acts defined as crimes, juveniles may be booked, fingerprinted, or photographed upon the approval from the Watch Commander or the Detective Division supervisor, giving due consideration to the following:

(a) The gravity of the offense

(b) The past record of the offender

(c) The age of the offender

325.15 RELEASE OF INFORMATION CONCERNING JUVENILES

Court decisions and legislation have combined to carefully specify situations in which information may be given out or exchanged when a case involves a juvenile. Members of this department shall not divulge any information regarding juveniles unless they are certain of the legal authority to do so.

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

325.16 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION

The Patrol Division Commander shall coordinate the procedures related to the custody of juveniles held at the Newport Beach Police Department and ensure any required certification is maintained (Welfare and Institution Code § 210.2).

325.17 RELIGIOUS ACCOMMODATION

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

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Senior and Disability Victimization

327.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation and reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification for Newport Beach Police Department members as required by law (Penal Code § 368.6).

The Newport Beach Police Department is committed to providing equal protection and demonstrating respect for all persons regardless of age or disabilities, and to conscientiously enforcing all criminal laws protecting elders, and adults and children with disabilities, regardless of whether these crimes also carry civil penalties (Penal Code § 368.6) (see Child Abuse Policy for child abuse investigations and reporting).

327.1.1 DEFINITIONS

Definitions related to this policy include:

Abuse of an elder (age 65 or older) or dependent adult - Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. Neglect includes self-neglect (Welfare and Institutions Code § 15610.05 et seq.; Penal Code § 368.5).

Department protocols (or protocols) - A procedure adopted by a local law enforcement agency consistent with the agency's organizational structure and stated in a policy adopted pursuant to this section, to effectively and accountably carry out a particular agency responsibility.

Dependent adult - An individual, regardless of whether the individual lives independently, between 18 and 64 years of age who has physical or mental limitations that restrict 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. This also includes those admitted as inpatients to a 24-hour health facility, as defined in state law (Penal Code § 368; Welfare and Institutions Code § 15610.23).

Elder and dependent adult abuse - Any offense or attempted offense involving violence or neglect of an adult victim when committed by a person responsible for the adult's care, or any other act that would mandate reporting or notification to a social service agency or law enforcement (Penal Code § 368).

Senior and disability victimization - Means any of the following (Penal Code § 368.6):

(a) Elder and dependent adult abuse

(b) Unlawful interference with a mandated report

(c) Homicide of an elder, dependent adult, or other adult or child with a disability

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(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

327.2 DEFINITIONS

Definitions related to this policy include:

Adult Abuse - Any offense or attempted offense involving violence or neglect of adults over the age of 65 or any offense or attempted offense involving a dependent adult victim committed by a caregiver. This also includes any other act that would mandate notification to a social service/ licensing agency or law enforcement related to the abuse of an adult (Welfare and Institutions Code § 15610.07; Welfare and Institutions Code § 15610.27; Welfare and Institutions Code § 15610.23).

Dependent Adult - Any person residing in this state, between 18 and 64 years of age, who has physical or mental limitations that restrict his/her ability to carry out normal activities or to protect his/her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This includes any person between 18 and 64 years of age who is admitted as an inpatient to a 24-hour health facility, as defined in state law (Health and Safety Code § 1250; Health and Safety Code § 1250.2; Health and Safety Code § 1250.3).

327.3 OFFICER'S RESPONSE

All incidents involving actual or suspected adult abuse shall be fully investigated and appropriately documented.

327.3.1 INITIAL RESPONSE

Officers may be called upon to effect a forced entry as the first responder to the scene of suspected adult abuse. Entry should be immediate when it appears reasonably necessary to protect life or property. When the need for an emergency entry is not evident, officers should seek supervisory approval. Officers must be prepared to provide emergency care pending the arrival of medical personnel, if not already present.

327.3.2 STABILIZE THE SITUATION

Officers must quickly assess the situation in an effort to ensure the immediate safety of all persons. Officers shall also consider taking the following actions:

(a) Attempt to identify the victim, suspect and witnesses as well as the roles and relationships of all parties. Parties should be interviewed separately when possible.

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(b) Preserve the crime scene where evidence may be present. All persons should be removed from the scene until it has been photographed and processed. Any evidence that may change in appearance (e.g., injuries) should be photographed as soon as practicable.

(c) Assess and define the nature of the problem. Officers should assess the available information to determine the type of abuse that may have taken place or the potential for abuse in the future that may be eliminated by intervention.

(d) Make on-scene arrests when appropriate. Officers may arrest a person without a warrant when probable cause exists to believe that the person has committed an assault or battery, whether or not the assault or battery has in fact been committed, upon an adult to whom the suspect is related by blood or legal guardianship, provided the arrest is made at the time probable cause arises (Penal Code § 836).

If an arrest is not otherwise required by law, officers should consider the consequences that the immediate arrest of a sole supporting family caretaker might have on the victim. The decision to arrest should be based on the best interests and caretaking needs of the elderly or dependent adult victim. The present and future safety of the victim is of utmost importance.

327.3.3 SUPPORT PERSONNEL

The following persons should be considered if it appears an in-depth investigation is appropriate:

- Patrol supervisor
- Detective personnel
- Evidence collection personnel
- Protective Services Agency personnel
- Ombudsman shall be called if the abuse is in a long-term care facility, to coordinate efforts to provide the most immediate and appropriate response (Welfare and Institutions Code § 15630(b)).

327.3.4 EMERGENCY PROTECTIVE ORDERS

In any situation which an officer reasonably believes that an elder or dependent adult is in immediate and present danger of abuse based on an allegation of a recent incident of abuse or threat of abuse (other than financial abuse alone), the officer may seek an emergency protective order against the person alleged to have committed or threatened such abuse (Family Code § 6250(d)).

327.4 ADULT ABUSE REPORTING

Every allegation of adult abuse shall be documented in a report. When documenting elder/ dependent abuse cases the following information should also be included in the report:

- Current location of the victim

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- Victim’s condition/nature and extent of injuries, neglect or loss
- Names of agencies and personnel requested and on scene

Reporting cases of adult abuse is confidential and will only be released in accordance with the Release of Records and Information Policy.

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

327.5 RELEVANT STATUTES

Penal Code § 288 (a) and Penal Code § 288 (b)(2)

(a) Except as provided in subdivision (i), a person who willfully and lewdly commits any lewd or lascivious act, including any of the acts constituting other crimes provided for in Part 1 (Of Crimes and Punishments of the Penal Code) upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(b)(2) A person who is a caretaker and commits an act described in subdivision (a) upon a dependent person by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, with the intent described in subdivision (a), is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.

Penal Code § 368 (c)

A person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which their person or health may be endangered, is guilty of a misdemeanor.

Penal Code § 368 (f)

A person who commits the false imprisonment of an elder or a dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

Protections provided by the above Penal Code § 288 and Penal Code § 368 protect many persons with disabilities regardless of the fact they live independently.

Welfare and Institutions Code § 15610.05

"Abandonment" means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

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Welfare and Institutions Code § 15610.06

"Abduction" means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.

Welfare and Institutions Code § 15610.30

(a) "Financial abuse" of an elder or dependent adult occurs when a person or entity does any of the following:

1. Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
2. Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
3. Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70.

(b) A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult.

(c) For purposes of this section, a person or entity takes, secretes, appropriates, obtains, or retains real or personal property when an elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult.

(d) For purposes of this section, "representative" means a person or entity that is either of the following:

1. A conservator, trustee, or other representative of the estate of an elder or dependent adult.
2. An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

Welfare and Institutions Code § 15610.43

(a) "Isolation" means any of the following:

1. Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.

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2. Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.
3. False imprisonment, as defined in Section 236 of the Penal Code.
4. Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.

(b) The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice. medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.

(c) The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safe.

Welfare and Institutions Code § 15610.57

(a) "Neglect" means either of the following:

1. The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.
2. The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise.

(b) Neglect includes, but is not limited to, all of the following:

1. Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
2. Failure to provide medical care for physical and mental health needs. A person shall not be deemed neglected or abused for the sole reason that the person voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.
3. Failure to protect from health and safety hazards.
4. Failure to prevent malnutrition or dehydration.
5. Substantial inability or failure of an elder or dependent adult to manage personal finances.
6. Failure of an elder or dependent adult to satisfy any of the needs specified in paragraphs (1) to (5), inclusive, for themselves as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.

(c) Neglect includes being homeless if the elder or dependent adult is also unable to meet any of the needs specified in paragraphs (1) to (5), inclusive, of subdivision (b).

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Welfare and Institutions Code § 15610.63

"Physical abuse" means any of the following:

(a) Assault, as defined in Section 240 of the Penal Code.

(b) Battery, as defined in Section 242 of the Penal Code.

(c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.

(d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(e) Sexual assault, that means any of the following:

1. Sexual battery, as defined in Section 243.4 of the Penal Code.
2. Rape, as defined in Section 261 of the Penal Code, or former Section 262 of the Penal Code.
3. Rape in concert, as described in Section 264.1 of the Penal Code.
4. Incest, as defined in Section 285 of the Penal Code.
5. Sodomy, as defined in Section 286 of the Penal Code.
6. Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.
7. Sexual penetration, as defined in Section 289 of the Penal Code.
8. Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.

(f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:

1. For punishment.
2. For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.
3. For any purpose not authorized by the physician and surgeon.

327.6 TRAINING

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

(a) Participating in multidisciplinary investigations, as appropriate.

(b) Conducting interviews.

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

(d) Availability of specialized forensic medical exams.

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

(f) Availability of victim advocates or other support.

327.6.1 MANDATORY TRAINING

The Training Manager shall ensure that appropriate personnel receive the required training, including:

(a) Materials from POST as described in Penal Code § 368.6(c)(5)(A).

(b) Advanced training on senior and disability victimization available from POST, the United States Department of Justice, the Disability and Abuse Project of the Spectrum Institute, or other sources as provided by Penal Code § 368.6(c)(16)(A).

1. Training should include the following:

(a) Information on the wide prevalence of elder and dependent adult abuse, sexual assault, other sex crimes, hate crimes, domestic violence, human trafficking, and homicide against adults and children with disabilities, including disabilities caused by advanced age, and including those crimes often committed by caretakers (Penal Code § 368.6(c)(1)).

(b) Information on the history of elder and dependent adult abuse and crimes against individuals with disabilities (see the POST Senior and Disability Victimization Policy Guidelines).

The Training Manager shall also ensure that appropriate training is provided on this policy to dispatchers, community services officers, front desk personnel, and other civilian personnel who interact with the public (Penal Code § 368.6 (c)(7)).

327.7 JURISDICTION

The Newport Beach Police Department has concurrent jurisdiction with state law enforcement agencies when investigating elder and dependent adult abuse and all other crimes against elder victims and victims with disabilities (Penal Code § 368.5).

Adult protective services agencies and local long-term care ombudsman programs also have jurisdiction within their statutory authority to investigate elder and dependent adult abuse and criminal neglect and may assist in criminal investigations upon request, if consistent with federal law, in such cases. However, this department will retain responsibility for the criminal investigations (Penal Code § 368.5).

Additional jurisdiction responsibilities for investigations of abuse involving various facilities and agencies may be found in Welfare and Institutions Code § 15650.

327.8 RECORDS BUREAU RESPONSIBILITIES

The Records Section is responsible for:

(a) Providing a copy of the elder or dependent adult abuse report to the APS, ombudsman, or other agency as applicable within two working days or as required by law (Welfare and Institutions Code § 15630; Welfare and Institutions Code § 15640(c)).

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(b) Retaining the original elder or dependent adult abuse report with the initial case file.

327.9 POLICY

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

327.9.1 ARREST POLICY

It is the department policy to make arrests or to seek arrest warrants for elder and dependent adult abuse in accordance with Penal Code § 836 and, in the case of domestic violence, as allowed by Penal Code § 13701 (Penal Code § 368.6) (see Law Enforcement Authority and Domestic Violence policies for additional guidance).

327.9.2 ADHERENCE TO POLICY

All officers are required to be familiar with the policy and carry out the policy at all times, except in the case of an unusual compelling circumstance as determined and approved by a supervisor (Penal Code § 368.6).

Any supervisor who determines and approves an officer's deviation from this policy shall provide a written report to the Chief of Police that states the unusual compelling circumstances regarding the deviation. A copy of this report will be made available to the alleged victim and reporting party pursuant to department protocols (Penal Code § 368.6(c)(27)).

The Chief of Police shall retain the report for a minimum of five years and shall make it available to the state protection and advocacy agency upon request (Penal Code § 368.6(c)(27)).

327.10 INVESTIGATIONS AND REPORTING

All reported or suspected cases of elder and dependent adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated (Penal Code § 368.6).

Investigations and reports related to suspected cases of elder and dependent adult abuse should address, as applicable:

(a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected elder and dependent adult abuse victim is contacted.

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

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

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

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

(f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.

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

(h) Previous addresses of the victim and suspect.

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

(j) Witness and suspect statements if available.

(k) Review of all portable audio/video recorders, devices, and other available video.

(l) Call history related to the elder or dependent adult including calls from mandated reporters or other individuals.

(m) Whether the abuse is related to a disability-bias hate crime and related bias motivations (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).

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

(o) Whether a death involved the End of Life Option Act:

1. Whether or not assistance was provided to the person beyond that allowed by law (Health and Safety Code § 443.14).
2. Whether an individual knowingly altered or forged a request for an aid-in-dying drug to end a person's life without his/her authorization, or concealed or destroyed a withdrawal or rescission of a request for an aid-in-dying drug (Health and Safety Code § 443.17).
3. Whether coercion or undue influence was exerted on the person to request or ingest an aid-in-dying drug or to destroy a withdrawal or rescission of a request for such medication (Health and Safety Code § 443.17).
4. Whether an aid-in-dying drug was administered to a person without his/her knowledge or consent (Health and Safety Code § 443.17).

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential elder or dependent adult abuse and investigated similarly.

An unexplained or suspicious death of an elder, dependent adult, or other adult or child with a disability should be treated as a potential homicide until a complete investigation including an autopsy is completed, and it should not be assumed that the death of an elder or person with a disability is natural simply because of the age or disability of the deceased (Penal Code § 368.6(c)(18)).

327.10.1 ADDITIONAL INVESTIGATIVE CONSIDERATIONS

The following factors as provided in Penal Code § 368.6 should be considered when investigating incidents of elder and dependent adult abuse:

(a) Elder and dependent adult abuse, sex crimes, child abuse, domestic violence, and any other criminal act, when committed in whole or in part because of the victim's

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actual or perceived disability, including disability caused by advanced age, is also a hate crime (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).

(b) Senior and disability victimization crimes are also domestic violence subject to the mandatory arrest requirements of Penal Code § 836 if they meet the elements described in Penal Code § 273.5, including but not limited to a violation by a caretaker or other person who is or was a cohabitant of the victim, regardless of whether the cohabitant is or was a relative of, or in an intimate personal relationship with, the victim (Penal Code § 368.6(c)(10)).

(c) Many victims of sexual assault and other sex crimes delay disclosing the crimes for reasons including but not limited to shame, embarrassment, self-doubt, fear of being disbelieved, and fear of retaliation by the perpetrator or others (Penal Code § 368.6(c)(11)).

(d) Victims and witnesses with disabilities, including cognitive and communication disabilities, can be highly credible witnesses when interviewed appropriately by trained officers or other trained persons (Penal Code § 368.6(c)(14)).

327.11 QUALIFIED INVESTIGATORS

Qualified investigators should be available to investigate cases of elder and dependent adult abuse. These investigators should:

(a) Conduct interviews in appropriate interview facilities.

(b) Be familiar with forensic interview techniques specific to elder and dependent adult abuse investigations.

(c) Present all cases of alleged elder and dependent adult abuse to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies, and facility administrators as needed (Welfare and Institutions Code § 15650).

(e) Provide referrals to therapy services, victim advocates, guardians, and support for the victim and family as appropriate (see the Victim and Witness Assistance Policy for additional guidance).

1. Ensure victims of sex crimes know their right to have a support person of their choice present at all times during an interview or contact (Penal Code § 368.6) (see the Sexual Assault Investigations Policy for additional guidance).

2. Referrals to the crime victim liaison as appropriate for victims requiring further assistance or information regarding benefits from crime victim resources.

(f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 15610.55).

(g) Make reasonable efforts to determine whether any person committed unlawful interference in a mandated report.

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327.12 PROTECTIVE CUSTODY

Before taking an elder or dependent adult abuse victim into protective custody when facts indicate the adult may not be able to care for him/herself, the officer should make reasonable attempts to contact APS. Generally, removal of an adult abuse victim from his/her family, guardian, or other responsible adult should be left to the welfare authorities when they are present or have become involved in an investigation.

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

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking an elder or dependent adult abuse victim into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking the adult into protective custody.

When elder or dependent adult abuse victims are under state control, have a state-appointed guardian, or there are other legal holdings for guardianship, it may be necessary or reasonable to seek a court order on behalf of the adult victim to either remove the adult from a dangerous environment (protective custody) or restrain a person from contact with the adult.

327.12.1 EMERGENCY PROTECTIVE ORDERS

In any situation which an officer reasonably believes that an elder or dependent adult is in immediate and present danger of abuse based on an allegation of a recent incident of abuse or threat of abuse (other than financial abuse alone), the officer may seek an emergency protective order against the person alleged to have committed or threatened such abuse (Family Code § 6250(d)).

327.12.2 VERIFICATION OF PROTECTIVE ORDER

Whenever an officer verifies that a relevant protective order has been issued, the officer shall make reasonable efforts to determine if the order prohibits the person from possession of firearms or requires the relinquishment of firearms, and if the order does so, the officer shall make reasonable efforts to (Penal Code § 368.6(c)(19)):

(a) Inquire whether the restrained person possesses firearms. The officer should make this effort by asking the restrained person and the protected person.

(b) Query the California Law Enforcement Telecommunications System to determine if any firearms are registered to the restrained person.

(c) Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search in compliance with Penal Code § 18250 et seq. and in accordance with department procedures.

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327.13 INTERVIEWS

327.13.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should audio record the preliminary interview with a suspected elder or dependent adult abuse victim. Officers should avoid multiple interviews with the victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available.

327.13.2 DETAINING VICTIMS FOR INTERVIEWS

An officer should not detain an adult involuntarily who is suspected of being a victim of abuse solely for the purpose of an interview or physical exam without his/her consent or the consent of a guardian unless one of the following applies:

(a) Exigent circumstances exist, such as:

1. A reasonable belief that medical issues of the adult need to be addressed immediately.
2. A reasonable belief that the adult is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is a family member or guardian and there is reason to believe the adult may be in continued danger.

(b) A court order or warrant has been issued.

327.13.3 INTERVIEWS WITH A PERSON WITH DEAFNESS OR HEARING LOSS

An officer who is interviewing a victim or witness who reports or demonstrates deafness or hearing loss should secure the services of a qualified interpreter (as defined by Evidence Code § 754) prior to the start of the interview (Penal Code § 368.6) (see the Communications with Persons with Disabilities Policy for additional guidance).

327.14 MEDICAL EXAMINATIONS

When an elder or dependent 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.

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327.15 DRUG-ENDANGERED VICTIMS

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of an elder or dependent adult abuse victim who has been exposed to the manufacturing, trafficking, or use of narcotics.

327.15.1 OFFICER RESPONSIBILITIES

Officers responding to a drug lab or other narcotics crime scene where an elder or dependent adult abuse victim is present or where there is evidence that an elder or dependent adult abuse victim lives should:

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

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

327.15.2 SUPERVISOR RESPONSIBILITIES

The Detective Division supervisor should:

(a) Work with professionals from the appropriate agencies, including APS, other law enforcement agencies, medical service providers, and local prosecutors, to develop community specific procedures for responding to situations where there are elder or dependent adult abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.

(b) Activate any available interagency response when an officer notifies the Detective Division supervisor that he/she has responded to a drug lab or other narcotics crime scene where an elder or dependent adult abuse victim is present or where evidence indicates that an elder or dependent adult abuse victim lives.

(c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social, and other conditions that may affect the adult.

327.16 CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police or the authorized designee responsibilities include but are not limited to (Penal Code § 368.6):

(a) Taking leadership within the Department and in the community, including by speaking out publicly in major cases of senior and disability victimization, to assure the community of department support for the victims and their families and for others in the community who are terrorized and traumatized by the crimes, and to encourage victims and witnesses to the crimes or similar past or future crimes to report those crimes to help bring the perpetrators to justice and prevent further crimes.

(b) Developing and including department protocols in this policy, including but not limited to the following:

1. Protocols for seeking emergency protective orders by phone from a court at any time of day or night pursuant to Family Code § 6250(d).

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2. Protocols for arrest warrants and arrests for senior and disability victimization for matters other than domestic violence and consistent with the requirements of Penal Code § 368.6(c)(9)(B) that include the following:

    (a) In the case of a senior and disability victimization committed in an officer's presence, including but not limited to a violation of a relevant protective order, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.

    (b) In the case of a felony not committed in an officer's presence, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.

    (c) In the case of a misdemeanor not committed in the officer's presence, including but not limited to misdemeanor unlawful interference with a mandated report or a misdemeanor violation of a relevant protective order, or when necessary or advisable to protect the safety of the victim or others, the agency shall seek an arrest warrant based on probable cause.

    (d) Protocol for seeking arrest warrants based on probable cause for crimes for which no arrest has been made.

3. Procedures for first responding officers to follow when interviewing persons with cognitive and communication disabilities until officers, or staff of other responsible agencies with more advanced training, are available. The procedure shall include an instruction to avoid repeated interviews whenever possible.

(c) For each department protocol, include either a specific title-by-title list of officer responsibilities or a specific office or unit in the Department responsible for implementing the protocol.

(d) Ensuring an appendix is created and attached to this policy that describes requirements for elder and dependent adult abuse investigations consistent with Penal Code § 368.6(c)(8)(B).

(e) Ensuring a detailed checklist is created and attached to this policy regarding first responding responsibilities that includes but is not limited to the requirements of Penal Code § 368.6(c)(23).

(f) Ensuring that all members carry out their responsibilities under this policy.

(g) Verifying a process is in place for transmitting and periodically retransmitting this policy and related orders to officers, including a simple and immediate way for officers to access the policy in the field when needed.

(h) Ensuring this policy is available to the Protection and Advocacy Agency upon request.

327.17 ELDER AND DEPENDENT ADULT ABUSE LIAISON

A department member appointed by the Chief of Police or the authorized designee will serve as the Elder and Dependent Adult Abuse Liaison. Responsibilities of the liaison include but are not limited to (Penal Code § 368.6):

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(a) Acting as a liaison to other responsible agencies (defined by Penal Code § 368.6(b)(15)) to increase cooperation and collaboration among them while retaining the law enforcement agency's exclusive responsibility for criminal investigations (Welfare and Institutions Code § 15650).

(b) Reaching out to the senior and disability communities and to the public to encourage prevention and reporting of senior and disability victimization.

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Discriminatory Harassment

329.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

329.2 POLICY

The Newport Beach Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation (Government Code § 12940(k); 2 CCR 11023). The Department will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The nondiscrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

329.3 DEFINITIONS

Definitions related to this policy include:

329.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments; making crude and offensive statements or remarks; making slurs or off-color jokes, stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or department equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to department policy and to a work environment that is free of discrimination.

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329.3.2 SEXUAL HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a member because of that person’s sex.

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position, or compensation.

(b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.

(c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

329.3.3 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles, or standards, including:

(a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission (EEOC) and the California Civil Rights Council guidelines.

(b) Bona fide requests or demands by a supervisor that the member improve the member's work quality or output, that the member report to the job site on time, that the member comply with City or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

329.3.4 RETALIATION

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

329.4 RESPONSIBILITIES

This policy applies to all department personnel. All members shall follow the intent of these guidelines in a manner that reflects department policy, professional standards, and the best interest of the Department and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to the member's immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Chief of Police, the Administrative Services Director, or the City Manager.

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

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retaliation, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

329.4.1 SUPERVISOR RESPONSIBILITIES

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

(a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.

(b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.

(c) Ensuring that their subordinates understand their responsibilities under this policy.

(d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.

(e) Making a timely determination regarding the substance of any allegation based upon all available facts.

(f) Notifying the Chief of Police or the Administrative Services Directorin writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

329.4.2 RETALIATION

In accordance with applicable law, this Policy prohibits any retaliatory adverse employment action (retaliation) against any person for filing a complaint about conduct that the person reasonably believes constitutes unlawful employment harassment or discrimination.

This Policy also prohibits retaliation against any person because of his/her participation in an investigation, proceeding or hearing related to a violation of this Policy.

Any complaint alleging retaliation in violation of this Policy, and any related communication, is protected provided that the complaint communication is made with a reasonable good faith belief that a violation of this Policy has occurred. Any Complaint of retaliation shall be processed in the same manner as a Complaint alleging sexual harassment or discrimination. The City will promptly, thoroughly and objectively investigate any claim of retaliation.

If the City determines that retaliation has occurred, the City will take effective disciplinary or remedial action as warranted, up to and including termination.

329.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all

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complaints of discrimination, retaliation, or harassment shall be fully documented and promptly and thoroughly investigated.

329.5.1 SUPERVISOR RESOLUTION

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

329.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented on forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

(a) Approved by the Chief of Police, the City Manager, or the Administrative Services Director, depending on the ranks of the involved parties.

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

329.7 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be documented on forms and in a manner designated by the City. All reports shall be maintained for a minimum of five years.

329.8 TRAINING

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that the member has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during the member's term with the Department.

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.

329.8.1 STATE-REQUIRED TRAINING

The Training Manager should ensure that employees receive the required state training and education regarding sexual harassment, prevention of abusive conduct, and harassment based on gender identity, gender expression, and sexual orientation as follows (Government Code § 12950.1; 2 CCR 11024):

(a) Supervisory employees shall receive two hours of classroom or other effective interactive training and education within six months of assuming a supervisory position.

(b) All other employees shall receive one hour of classroom or other effective interactive training and education within six months of their employment or sooner for seasonal or temporary employees as described in Government Code § 12950.1.

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(c) All employees shall receive refresher training every two years thereafter.

If the required training is to be provided by the Civil Rights Department online training courses, the Training Manager should ensure that employees are provided the following website address to the training course: https://calcivilrights.ca.gov (Government Code § 12950; 2 CCR 11023).

329.8.2 TRAINING RECORDS

The Training Manager shall be responsible for maintaining records of all discriminatory harassment training provided to members. Records shall be retained in accordance with established records retention schedules and for a minimum of two years (2 CCR 11024).

329.9 WORKING CONDITIONS

The Support Services Division Commander or the authorized designee should be responsible for reviewing facility design and working conditions for discriminatory practices. This person should collaborate with other City employees who are similarly tasked (2 CCR 11034).

329.10 REQUIRED POSTERS

The Department shall display the required posters regarding discrimination, harassment and transgender rights in a prominent and accessible location for members (Government Code § 12950).

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Child Abuse

331.1 PURPOSE AND SCOPE

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

331.1.1 DEFINITIONS

Definitions related to this policy include:

Child - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

Child abuse - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency or law enforcement (Penal Code § 11165.9; Penal Code § 11166).

331.2 POLICY

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

331.2.1 CHILD ABUSE REPORTING

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

For purposes of this section, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect.

Upon completing a Suspected Child Abuse Report (SS 8572), call the Child Abuse Registry for telephonic notification of the case and fax the report to Child Protective Services. If there is any doubt about the necessity for reporting Child Abuse, contact a Special Victims Unit detective, Special Victims Unit supervisor, or the Watch Commander.

331.3 MANDATORY NOTIFICATION

The child protection agency shall be notified when (Penal Code § 11166):

(a) There is a known or suspected instance of child abuse or neglect reported, which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or

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(b) A person responsible for the child's welfare fails to adequately protect the child from abuse when the person knew or reasonably should have known that the child was in danger of abuse.

The District Attorney's office shall be notified in all instances of known or suspected child abuse or neglect reported to this department. Notification of the District Attorney is not required for reports only involving neglect by a person, who has the care or custody of a child, to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred (Penal Code § 11166).

When the abuse or neglect occurs at a licensed facility or is alleged to have resulted from the actions of a person who is required to have a state license (e.g., foster homes, group homes, day care), notification shall also be made to the California Department of Social Services or other applicable licensing authority. When the alleged abuse or neglect involves a child of a minor parent or a dependent adult, notification shall also be made to the attorney of the minor or the dependent adult within 36 hours (Penal Code 11166.1; Penal Code 11166.2).

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

331.3.1 NOTIFICATION PROCEDURE

Notification should occur as follows (Penal Code § 11166):

(a) Notification shall be made immediately, or as soon as practicable, by telephone, fax or electronic transmission.

(b) A written follow-up report should be forwarded within 36 hours of receiving the information concerning the incident.

331.3.2 REPORTING REQUIREMENTS

Any incident of suspected child abuse or severe neglect for which Newport Beach Police Department conducts an investigation and for which it determines that the allegations of abuse or severe neglect are substantiated must be reported to the California Department of Justice (DOJ) (Penal Code § 11165.12). DOJ reporting will be handled by Orange County Social Services Agency (OC SSA).

331.4 QUALIFIED INVESTIGATORS

Qualified investigators should be available for child abuse investigations. These investigators should:

(a) Conduct interviews in child appropriate interview facilities.

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(b) Be familiar with forensic interview techniques specific to child abuse investigations.

(c) Present all cases of alleged child abuse to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.

(e) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.

(f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 18961.7).

331.5 INVESTIGATIONS AND REPORTING

In all reported or suspected cases of child abuse, a report will be written. Officers shall write a report even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of child abuse should address, as applicable:

(a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.

(b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.

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

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

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

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

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

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

(i) Previous addresses of the victim and suspect.

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

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

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331.5.1 EXTRA JURISDICTIONAL REPORTS

If a report of known or suspected child abuse or neglect that is alleged to have occurred outside this jurisdiction is received, department members shall ensure that the caller is immediately transferred to the agency with proper jurisdiction for the investigation of the case. If the caller cannot be successfully transferred to the appropriate agency, a report shall be taken and immediately referred by telephone, fax, or electronic transfer to the agency with proper jurisdiction (Penal Code § 11165.9).

331.5.2 INITIAL REPORTS OF ABUSE FROM A NONMANDATED REPORTER

Members who receive a report of child abuse or neglect shall request the following information from the reporter (Penal Code § 11167):

(a) Name and telephone number

(b) Information and the source of information that gives rise to the knowledge or reasonable suspicion of child abuse or neglect

If the reporter refuses to provide their name and telephone number, the member should make a reasonable effort to determine the basis for the refusal and inform them that their information will remain confidential.

331.6 PROTECTIVE CUSTODY

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

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

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

Children may only be removed from a parent or guardian in the following situations when a court order cannot reasonably be obtained in a timely manner (Welfare and Institutions Code § 305):

(a) The officer reasonably believes the child is a person described in Welfare and Institutions Code § 300, and further has good cause to believe that any of the following conditions exist:

1. The child has an immediate need for medical care.

2. The child is in immediate danger of physical or sexual abuse.

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3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a child left unattended, the officer shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.

(b) The officer reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:

1. It reasonably appears to the officer that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
2. There is no lawful custodian available to take custody of the child.
3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
4. The child is an abducted child.

(c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 (Detainment or concealment of child from legal custodian) or Penal Code § 278.5 (Deprivation of custody of a child or right to visitation) (Penal Code § 279.6).

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

331.6.1 CALIFORNIA SAFELY SURRENDERED BABY LAW

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

331.6.2 NEWBORNS TESTING POSITIVE FOR DRUGS

Under certain circumstances, officers can be prohibited from taking a newborn who is the subject of a proposed adoption into protective custody, even when the newborn has tested positive for illegal drugs or the birth mother tested positive for illegal drugs.

Officers shall instead follow the provisions of Welfare and Institutions Code § 305.6 to ensure that the newborn is placed with the adoptive parents when it is appropriate.

331.7 INTERVIEWS

331.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained

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in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

331.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW

An officer should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

(a) Exigent circumstances exist, such as:

1. A reasonable belief that medical issues of the child need to be addressed immediately.
2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.

(b) A court order or warrant has been issued.

331.7.3 INTERVIEWS AT A SCHOOL

Any student at school who is a suspected victim of child abuse shall be afforded the option of being interviewed in private or selecting any qualified available adult member of the school staff to be present. The purpose of the staff member's presence is to provide comfort and support. The staff member shall not participate in the interview. The selection of a staff member should be such that it does not burden the school with costs or hardship (Penal Code § 11174.3).

331.8 MEDICAL EXAMINATIONS

If the child has been the victim of abuse that requires a medical examination, the investigating officer should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The officer should also arrange for the child's transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination.

331.9 DRUG-ENDANGERED CHILDREN

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

331.9.1 SUPERVISOR RESPONSIBILITIES

The Detective Division supervisor should:

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(a) Work with professionals from the appropriate agencies, including CPS, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.

(b) Activate any available interagency response when an officer notifies the Detective Division supervisor that the officer has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives there.

(c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the child.

331.9.2 OFFICER RESPONSIBILITIES

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

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

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

331.10 STATE MANDATES AND OTHER RELEVANT LAWS

California requires or permits the following:

331.10.1 RELEASE OF REPORTS

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Penal Code § 841.5; Penal Code § 11167.5).

331.10.2 REQUESTS FOR REMOVAL FROM THE CHILD ABUSECENTRAL INDEX (CACI)

Any person whose name has been forwarded to the California Department of Justice (DOJ) for placement in California's CACI, as a result of an investigation, may request that his/her name be removed from the CACI list. Requests shall not qualify for consideration if there is an active case, ongoing investigation or pending prosecution that precipitated the entry to CACI (Penal Code § 11169). All requests for removal shall be submitted in writing by the requesting person and promptly routed to the CACI hearing officer.

331.10.3 CACI HEARING OFFICER

The Detective Division supervisor will normally serve as the hearing officer but must not be actively connected with the case that resulted in the person's name being submitted to CACI. Upon receiving a qualified request for removal, the hearing officer shall promptly schedule a hearing to take place during normal business hours and provide written notification of the time and place of the hearing to the requesting party.

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331.10.4 CACI HEARING PROCEDURES

The hearing is an informal process where the person requesting removal from the CACI list will be permitted to present relevant evidence (e.g., certified copy of an acquittal, factual finding of innocence) as to why his/her name should be removed. The person requesting the hearing may record the hearing at his/her own expense.

Formal rules of evidence will not apply and the hearing officer may consider, in addition to evidence submitted by the person requesting the hearing, any relevant information including, but not limited to, the following:

(a) Case reports including any supplemental reports

(b) Statements by investigators

(c) Statements from representatives of the District Attorney's Office

(d) Statements by representatives of a child protective agency who may be familiar with the case

After considering all information presented, the hearing officer shall make a determination as to whether the requesting party's name should be removed from the CACI list. Such determination shall be based on a finding that the allegations in the investigation are not substantiated (Penal Code § 11169).

If, after considering the evidence, the hearing officer finds that the allegations are not substantiated, he/she shall cause a request to be completed and forwarded to the DOJ that the person's name be removed from the CACI list. A copy of the hearing results and the request for removal will be attached to the case reports.

The findings of the hearing officer shall be considered final and binding.

331.10.5 CHILD DEATH REVIEW TEAM

This department should cooperate with any interagency child death review team investigation. Written and oral information relating to the death of a child that would otherwise be subject to release restrictions may be disclosed to the child death review team upon written request and approval of a supervisor (Penal Code § 11174.32).

331.11 TRAINING

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

(a) Participating in multidisciplinary investigations, as appropriate.

(b) Conducting forensic interviews.

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

(d) Availability of specialized forensic medical exams.

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

(f) Availability of victim advocate or guardian ad litem support.

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Missing Persons

333.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

333.1.1 DEFINITIONS

Definitions related to this policy include:

At risk - Includes but is not limited to (Penal Code § 14215):

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

Missing person - Any person who is reported missing to law enforcement when the person's location is unknown. This includes a child who has been taken, detained, concealed, enticed away, or kept by a parent in violation of the law (Penal Code § 277 et seq.). It also includes any child who is missing voluntarily, involuntarily, or under circumstances that do not conform to their ordinary habits or behavior, and who may be in need of assistance (Penal Code § 14215).

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

333.2 POLICY

The Newport Beach Police Department does not consider any report of a missing person to be routine and assumes that the missing person is in need of immediate assistance until an investigation reveals otherwise. The Newport Beach Police Department gives missing person cases priority over property-related cases and will not require any time frame to pass before beginning a missing person investigation (Penal Code § 14211).

333.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS

The Detective supervisor should ensure the forms and kits are developed and available in accordance with this policy, state law, federal law and the California Peace Officer Standards and Training (POST) Missing Persons Investigations guidelines, including:

- Department report form for use in missing person cases

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- Missing person investigation checklist that provides investigation guidelines and resources that could be helpful in the early hours of a missing person investigation (Penal Code § 13519.07)
- Missing person school notification form
- Medical records release form from the California Department of Justice
- California DOJ missing person forms as appropriate
- Biological sample collection kits

333.4 ACCEPTANCE OF REPORTS

Any member encountering a person who wishes to report a missing person or runaway shall render assistance without delay (Penal Code § 14211). This can be accomplished by accepting the report via telephone or in-person and initiating the investigation. Those members who do not take such reports or who are unable to render immediate assistance shall promptly dispatch or alert a member who can take the report.

A report shall be accepted in all cases and regardless of where the person was last seen, where the person resides or any other question of jurisdiction (Penal Code § 14211).

333.5 INITIAL INVESTIGATION

Officers or other members conducting the initial investigation of a missing person should take the following investigative actions, as applicable:

(a) Respond to a dispatched call for service as soon as practicable.

(b) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.

(c) Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).

(d) Broadcast a "Be on the Look-Out" (BOLO) bulletin if the person is under 21 years of age or there is evidence that the missing person is at risk. The BOLO should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 21 years of age or may be at risk (Penal Code § 14211).

(e) Ensure that entries are made into the appropriate missing person networks as follows:

1. Immediately, when the missing person is at risk.
2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report.

(f) Complete the appropriate report forms accurately and completely and initiate a search as applicable under the facts.

(g) Collect and/or review:

1. A photograph and a fingerprint card of the missing person, if available.

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2. A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).
3. Any documents that may assist in the investigation, such as court orders regarding custody.
4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).

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

(i) Contact the appropriate agency if the report relates to a previously made missing person report and another agency is actively investigating that report. When this is not practical, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at-risk missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.

333.6 REPORT PROCEDURES AND ROUTING

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

333.6.1 SUPERVISOR RESPONSIBILITIES

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

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

(b) Ensuring resources are deployed as appropriate.

(c) Initiating a command post as needed.

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

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

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

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

333.6.2 RECORDS SECTION RESPONSIBILITIES

The responsibilities of the receiving member shall include but are not limited to:

(a) As soon as reasonable under the circumstances, notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's residence in cases where the missing person is a resident of another jurisdiction (Penal Code § 14211).

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(b) Notifying and forwarding a copy of the report to the agency of jurisdiction where the missing person was last seen (Penal Code § 14211).

(c) Notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's intended or possible destination, if known.

(d) Forwarding a copy of the report to the Detective Division.

(e) Coordinating with the NCIC Terminal Contractor for California to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

333.7 DETECTIVE DIVISION FOLLOW-UP

In addition to completing or continuing any actions listed above, the investigator assigned to a missing person investigation:

(a) Shall ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.

1. The notice shall be in writing and should also include a photograph (Education Code § 49068.6).

2. The investigator should meet with school officials as appropriate to stress the importance of including the notice in the child's student file, along with the investigator's contact information if the school receives a call requesting the transfer of the missing child's files to another school.

(b) Should recontact the reporting party and/or other witnesses within 30 days of the initial report and within 30 days thereafter to keep them informed, as appropriate, and to determine if any additional information has become available.

(c) Should consider contacting other agencies involved in the case to determine if any additional information is available.

(d) Shall verify and update CLETS, NCIC, and any other applicable missing person networks within 30 days of the original entry into the networks and every 30 days thereafter until the missing person is located (34 USC § 41308).

(e) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 30 days.

(f) Shall maintain a close liaison with state and local child welfare systems and the National Center for Missing and Exploited Children (NCMEC) if the missing person is under the age of 21 and shall promptly notify NCMEC when the person is missing from a foster care family home or childcare institution (34 USC § 41308).

(g) Should make appropriate inquiry with the Coroner.

(h) Should obtain and forward medical and dental records, photos, X-rays, and biological samples pursuant to Penal Code § 14212 and Penal Code § 14250.

(i) Shall attempt to obtain the most recent photograph for persons under 18 years of age if it has not been obtained previously and forward the photograph to California DOJ (Penal Code § 14210) and enter the photograph into applicable missing person networks (34 USC § 41308).

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(j) In the case of an at-risk missing person or a person who has been missing for an extended time, should consult with a supervisor regarding seeking federal assistance from the FBI and the U.S. Marshals Service (28 USC § 566).

333.8 WHEN A MISSING PERSON IS FOUND

When any person reported missing is found, the assigned investigator shall document the location of the missing person in the appropriate report, notify the relatives and/or reporting party, as appropriate, and other involved agencies and refer the case for additional investigation if warranted.

The Records Manager shall ensure that, upon receipt of information that a missing person has been located, the following occurs (Penal Code § 14213):

(a) Notification is made to California DOJ.

(b) The missing person's school is notified.

(c) Entries are made in the applicable missing person networks.

(d) Immediately notify the Attorney General's Office.

(e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation within 24 hours.

333.8.1 UNIDENTIFIED PERSONS

Members investigating a case of an unidentified person who is deceased or a living person who cannot assist in identifying themself should:

(a) Obtain a complete description of the person.

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

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

333.9 CASE CLOSURE

The Detective Division supervisor may authorize the closure of a missing person case after considering the following:

(a) Closure is appropriate when the missing person is confirmed returned or evidence has matched an unidentified person or body.

(b) If the missing person is a resident of Name of your jurisdiction: or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.

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

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

333.10 TRAINING

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

(a) The initial investigation:

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

(b) Briefing of department members at the scene.

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

(d) Verifying the accuracy of all descriptive information.

(e) Initiating a neighborhood investigation.

(f) Investigating any relevant recent family dynamics.

(g) Addressing conflicting information.

(h) Key investigative and coordination steps.

(i) Managing a missing person case.

(j) Additional resources and specialized services.

(k) Update procedures for case information and descriptions.

(l) Preserving scenes.

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

(n) Media relations.

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Public Alerts

335.1 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.

335.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS), local radio, television and press organizations and other groups to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

335.3 RESPONSIBILITIES

335.3.1 MEMBER RESPONSIBILITIES

Members of the Newport Beach Police Department should notify their supervisor, Watch Commander, or Detective Division Supervisor as soon as practicable upon learning of a situation where public notification, a warning, or enlisting the help of the media and public could assist in locating a missing person, apprehending a dangerous person, or gathering information.

335.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the Chief of Police, the appropriate Division Commander and the Press Information Officer when any public alert is generated.

The supervisor in charge of the investigation to which the alert relates is responsible for the following:

(a) Updating alerts

(b) Canceling alerts

(c) Ensuring all appropriate reports are completed

(d) Preparing an after-action evaluation of the investigation to be forwarded to the Division Commander

335.4 AMBER ALERTS

The AMBER Alert™ Program is a voluntary partnership between law enforcement agencies, broadcasters, transportation agencies and the wireless industry, to activate urgent bulletins in child abduction cases.

335.4.1 CRITERIA FOR AMBER ALERT

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

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(a) A child has been abducted or taken by anyone, including but not limited to a custodial parent or guardian.

(b) The victim is 17 years of age or younger, or has a proven mental or physical disability.

(c) The victim is in imminent danger of serious injury or death.

(d) There is information available that, if provided to the public, could assist in the child's safe recovery.

335.4.2 PROCEDURE FOR AMBER ALERT

The supervisor in charge will ensure the following:

(a) An initial press release is prepared that includes all available information that might aid in locating the child:

1. The child's identity, age and description
2. Photograph if available
3. The suspect's identity, age and description, if known
4. Pertinent vehicle description
5. Detail regarding location of incident, direction of travel, potential destinations, if known
6. Name and telephone number of the Press Information Officer or other authorized individual to handle media liaison
7. A telephone number for the public to call with leads or information

(b) The local California Highway Patrol communications center should be contacted to initiate a multi-regional or statewide EAS broadcast, following any policies and procedures developed by CHP (Government Code § 8594).

(c) The press release information is forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.

(d) Information regarding the missing person should be entered into the California Law Enforcement Telecommunication System (CLETS).

(e) Information regarding the missing person should be entered into the California Department of Justice Missing and Unidentified Persons System (MUPS)/National Crime Information Center (NCIC).

(f) The following resources should be considered as circumstances dictate:

1. The local FBI office
2. National Center for Missing and Exploited Children (NCMEC)

335.5 BLUE ALERTS

Blue Alerts may be issued when an officer is killed, injured or assaulted and the suspect may pose a threat to the public or other law enforcement personnel.

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335.5.1 CRITERIA FOR BLUE ALERTS

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

(a) A law enforcement officer has been killed, suffered serious bodily injury or has been assaulted with a deadly weapon, and the suspect has fled the scene of the offense.

(b) The investigating law enforcement agency has determined that the suspect poses an imminent threat to the public or other law enforcement personnel.

(c) A detailed description of the suspect's vehicle or license plate is available for broadcast.

(d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect.

335.5.2 PROCEDURE FOR BLUE ALERT

The supervisor in charge should ensure the following:

(a) An initial press release is prepared that includes all available information that might aid in locating the suspect:

1. The license number and/or any other available description or photograph of the vehicle
2. Photograph, description and/or identification of the suspect
3. The suspect's identity, age and description, if known
4. Detail regarding location of incident, direction of travel, potential destinations, if known
5. Name and telephone number of the Press Information Officer or other authorized individual to handle media liaison
6. A telephone number for the public to call with leads or information

(b) The local California Highway Patrol communications center is contacted to initiate a multi-regional or statewide EAS broadcast.

(c) The information in the press release is forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.

(d) The following resources should be considered as circumstances dictate:

1. Entry into the California Law Enforcement Telecommunication System (CLETS)
2. The FBI local office

335.6 SILVER ALERTS

Silver Alerts® is an emergency notification system for people who are 65 years of age or older, developmentally disabled or cognitively impaired and have been reported missing (Government Code § 8594.10).

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335.6.1 CRITERIA FOR SILVER ALERTS

All of the following conditions must be met before activating a Silver Alert (Government Code § 8594.10):

(a) The missing person is 65 years of age or older, developmentally disabled or cognitively impaired.

(b) The department has utilized all available local resources.

(c) The investigating officer or supervisor has determined that the person is missing under unexplained or suspicious circumstances.

(d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.

(e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

335.6.2 PROCEDURE FOR SILVER ALERT

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

335.7 ADDITIONAL ALERTS FOR PUBLIC SAFETY EMERGENCIES

Additional public safety emergency alerts may be authorized that utilize wireless emergency alert system (WEA) and emergency alert system (EAS) equipment for alerting and warning the public to protect lives and save property (Government Code § 8593.7).

335.7.1 CRITERIA

Public safety emergency alerts may be issued to alert or warn the public about events including but not limited to:

(a) Evacuation orders (including evacuation routes, shelter information, key information).

(b) Shelter-in-place guidance due to severe weather.

(c) Terrorist threats.

(d) HazMat incidents.

335.7.2 PROCEDURE

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

335.8 FEATHER ALERT

A Feather Alert may be issued when an Indigenous person is reported missing. The determination that criteria has been met for the alert shall be made within 24 hours following the initial report being made to the Department (Government Code § 8594.13).

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335.8.1 CRITERIA FOR FEATHER ALERT

The Department may request that a Feather Alert be activated if it is determined that the alert would be an effective tool in the investigation of missing and murdered Indigenous persons, including young women or girls. The following factors shall be considered to make that determination (Government Code § 8594.13):

(a) The missing person is an Indigenous person.

(b) The Department has utilized local and tribal resources.

(c) The investigating officer has determined the person is missing.

(d) The investigating officer or supervisor believes that the person is in danger and 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.
3. The missing person suffers from a mental or physical disability, or substance use disorder.

(e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

335.8.2 PROCEDURE FOR FEATHER ALERT

Requests for a Feather Alert shall be made through the California Highway Patrol (Government Code § 8594.13).

335.9 ENDANGERED MISSING ADVISORY

An Endangered Missing Advisory may be requested when a person is reported missing who is developmentally disabled, or cognitively impaired, or has been abducted, or is unable to otherwise care for themselves, placing their physical safety at risk (Government Code § 8594.11).

335.9.1 CRITERIA FOR ENDANGERED MISSING ADVISORY

All of the following conditions must be met before activating an Endangered Missing Advisory (Government Code § 8594.11):

(a) The missing person is developmentally disabled, cognitively impaired, has been abducted or is otherwise unable to care for themselves, placing their physical safety at risk.

(b) The Department has utilized all available local resources.

(c) The investigating officer has determined the person has gone missing under unexplained or suspicious circumstances.

(d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.

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(e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

335.9.2 PROCEDURE FOR ENDANGERED MISSING ADVISORIES
Requests for an endangered missing advisory shall be made through the California Highway Patrol (Government Code § 8594.11).

335.10 EBONY ALERT

An Ebony Alert may be requested when it is determined the alert would be an effective tool in the investigation of missing Black youth, including a young woman or girl (Government Code § 8594.14).

335.10.1 CRITERIA FOR EBONY ALERT
The investigating officer may consider the following factors to make the determination that an Ebony Alert would be an effective tool (Government Code § 8594.14):

(a) The missing person is between the ages of 12 and 25 years old, inclusive.

(b) The missing person is missing under circumstances that indicate their physical safety is endangered or they have been subject to trafficking.

(c) The missing person suffers from a mental or physical disability.

(d) Determination that the person has gone missing under unexplained or suspicious circumstances.

(e) Belief that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.

(f) The Department has utilized all available local resources.

(g) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

335.10.2 PROCEDURE FOR EBONY ALERT
Requests for an Ebony Alert shall be made through the California Highway Patrol (Government Code § 8594.14).

335.11 LANGUAGE REQUIREMENTS FOR PUBLIC EMERGENCIES

In the event of an emergency, as defined in Government Code § 7299.7, the Newport Beach Police Department shall provide information to the public relating to the emergency in all languages jointly spoken by the local population as provided in Government Code § 7299.7.

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Victim and Witness Assistance

337.1 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.

337.2 POLICY

The Newport Beach Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The members of the Newport Beach Police Department will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

337.3 CRIME VICTIM LIAISON

The Chief of Police shall appoint a member of the Department to serve as the crime victim liaison (2 CCR 649.36). The crime victim liaison will be the point of contact for individuals requiring further assistance or information from the Newport Beach Police Department regarding benefits from crime victim resources. This person shall also be responsible for maintaining compliance with all legal mandates related to crime victims and/or witnesses.

337.3.1 CRIME VICTIM LIAISON DUTIES

The crime victim liaison is specifically tasked with the following:

(a) Developing and implementing written procedures for notifying and providing forms for filing with the California Victim Compensation Board (CalVCB) to crime victims, their dependents, or family. Access to information or an application for victim compensation shall not be denied based on the victim's or derivative victim's designation as a gang member, associate, or affiliate, or on the person's documentation or immigration status (Government Code § 13962; 2 CCR 649.35; 2 CCR 649.36).

(b) Responding to inquiries concerning the procedures for filing a claim with CalVCB (2 CCR 649.36).

(c) Providing copies of crime reports requested by CalVCB or victim witness assistance centers. Disclosure of reports must comply with the Records Maintenance and Release Policy.

(d) Annually providing CalVCB with the crime victim liaison's contact information (Government Code § 13962).

(e) Developing in consultation with sexual assault experts a sexual assault victim card explaining the rights of victims under California law (Penal Code § 680.2).

1. Ensuring that sufficient copies of the rights of sexual assault victim card are provided to each provider of medical evidentiary examinations or physical examinations arising out of sexual assault in the Newport Beach Police Department jurisdiction (Penal Code § 680.2).

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(f) Providing information required by Penal Code § 679.09 of a deceased minor to a parent or guardian of the minor whose death is being investigated.

1. In cases where the parent or guardian of the deceased minor cannot be located, information required by Penal Code § 679.09 shall be provided to the victim's immediate family, upon their request.

(g) Providing notification to victims of human trafficking or abuse of their right to have a human trafficking advocate and a support person that the victim chooses present during any interview by the Department, prosecutor, the suspect's defense attorney, or any other subsequent examinations and proceedings (Penal Code § 236.21; Welfare and Institutions Code § 23020).

1. Notification includes an explanation of the benefits of being represented by an advocate that includes confidentiality and evidentiary privilege, emotional support, assistance in accessing resources, and assistance with understanding their legal rights.

2. If the survivor requests an advocate, arranging for an advocate to be present for any further interviews or examinations by contacting a rape crisis center or another appropriate organization, such as an immigrant services organization.

3. If an advocate is waived, providing the victim with an authorized department standardized written waiver of advocacy. The victim should be advised that they may revoke the waiver at any time and request an advocate.

(h) Working in collaboration with community-based organizations to establish a process for referrals of human trafficking victims to the county social services department (Welfare and Institutions Code § 23020).

1. Referrals to services should be consistent with a survivor's culture, sexual orientation, and gender identity.

337.3.2 VICTIM CONFIDENTIALITY

Officers investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim's parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that their name not be made public. The reporting officer shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim's parent or guardian (Penal Code § 293 (a) and (b)).

Except as authorized by law, members of this department shall not publicly disclose the name or address of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293 (c) and (d)).

337.3.3 DETECTIVE RESPONSIBILITY

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

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337.3.4 SUPERVISOR RESPONSIBILITY

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

337.3.5 VICTIM INFORMATION AND NOTIFICATION

When appropriate, officers should advise the victim of the availability of the Victim Information and Notification Everyday (VINE) program. VINE is a free, computer-based telephone service that allows victims to check on an offender's custody status and register to receive automatic notification when an inmate is released from jail. The contact phone number for VINE is printed on the Name of your jurisdiction: Police Department Information for Victims of Domestic Violence, Sexual Assault and Crimes of Violence Form (NBPD Form 1.90.1).

337.4 RECORDS SECTION RESPONSIBILITY

The Records Supervisor shall be the designated Victims of Crime Liaison Officer, liaison to the Victim-Witness Assistance Program office. It shall be his/her responsibility to forward copies of police reports requested by personnel at the local victim centers to verify the criminal activity upon which the application for assistance is based. The Liaison Officer shall carry out the functions required by Government Code § 13962(b) and 2 CCR 649.35 and devise and implement written procedures pursuant to 2 CCR 649.36 in order to notify and provide the required compensation information to victims. The Release of Records and Information Policy in this manual regarding release of reports shall be followed in all cases.

337.5 VICTIM INFORMATION

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

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

(b) Community resources for victims of sexual assault.

(c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109; Penal Code § 13823.95(a)).

(d) An explanation that victims of sexual assault who seek a standardized medical evidentiary examination shall not be required to participate or agree to participate in the criminal justice system, either prior to the examination or at any other time (Penal Code § 13823.95(b)).

(e) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.

(f) A clear explanation of relevant court orders and how they can be obtained.

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(g) Information regarding available compensation for qualifying victims of crime (Government Code § 13962).

(h) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.

(i) Notice regarding U visa and T visa application processes.

(j) Resources available for victims of identity theft.

(k) A place for the officer's name, badge number, and any applicable case or incident number.

(l) The "Victims of Domestic Violence" card containing the names, phone numbers, or local county hotlines of local shelters for battered women and rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2).

(m) The rights of sexual assault victims card with the required information as provided in Penal Code § 680.2.

(n) Referrals to organizations that provide services to survivors of human trafficking, including immigrant services organizations (Welfare and Institutions Code § 23020).

(o) Any additional information required by state law (Penal Code § 13701; Penal Code § 679.02; Penal Code § 679.04; Penal Code § 679.05; Penal Code § 679.026).

337.6 WITNESSES

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

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

337.7 APPENDIX

See attachments:

POST Human Trafficking Survivor's Waiver of Rights to an Advocate.pdf

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Standards of Conduct

340.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Newport Beach Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

340.2 POLICY

The continued employment or appointment of every member of the Newport Beach Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

340.2.1 MANDATORY NOTIFICATIONS

Certain off duty conduct, incidents or legal processes are job related due to their effect on the carrying of firearms, operation of vehicles, liability of the city, or reputation of the department. Employees involved in the following events or legal processes shall immediately or without undue delay notify their Division Commander or the on-duty Watch Commander, who shall ensure that an appropriate investigation is conducted. Any mandatory notification concerning any matter which may subject the employee to criminal liability shall be considered compelled. The employee shall follow the directions of their Division Commander or the Watch Commander, or if not so directed, comply with specific procedures in applicable sections of the Department Manual. When the employee is unable to personally make the required notification, the employee shall cause such notification to be made at the earliest opportunity.

Off Duty Physical Altercations

Any employee involved in a physical altercation, while off duty, shall report the incident without unnecessary delay. The Watch Commander, upon learning of an employee involved altercation, shall ensure the incident is investigated.

Employee Arrested or Identified as Suspect

Any employee who is arrested, or becomes aware they are a suspect in a misdemeanor or felony investigation by another agency, shall make the required notification.

Employee Involved Shootings

Employees involved in a shooting shall make the required notification.

Accidental Discharge of a Firearm

Employees involved in an accidental discharge of a firearm shall make the required notification.

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Legal Restrictions on Firearm Possession

Any employee who may have a legal restriction on the possession of a firearm per California Penal Code Section 12021, 12021.1 or any other section that restricts firearm possession shall immediately make the required notification. Such restrictions may result from a variety of events, past or present, including but not limited to:

- Conviction of a felony or any crime of violence, including misdemeanor assault or battery
- Involuntary commitment for mental evaluation per 5150, 5250 or 5350 Welfare and Institutions Code
- A restriction on firearm possession as a condition of probation for any offense
- Domestic Violence Related Convictions
- Any employee who has been convicted or entered a plea of Nolo Contendre to any offense that has domestic violence as its factual basis
- Domestic Violence or Harassment Related Restraining or Emergency Protective Orders
- Any employee subject to a restraining, protective or similar court order which has as its basis allegations of domestic violence or harassment

Drivers License Restriction

Any employee who may drive any city vehicle who is aware of any restriction on their driving privilege shall make notification. Such restrictions include but are not limited to:

- Suspensions
- Revocations
- Time or activity related restrictions
- Employees need not make notification for restrictions that are medical in nature unless the employee desires or requires a reasonable accommodation for the condition to perform essential job functions

Other Circumstances or Legal Processes

Employees shall make notification of any circumstances or legal processes that may conflict with or interfere with the performance of their duties or ability to meet any legal requirement for their position. Such circumstances may include, but are not limited to:

- Ingestion of medication that is likely to impair an employee's ability to safely carry out job functions or that is likely to lead to a direct threat to the safety of another while the employee is on duty.

340.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

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340.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

340.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

(a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.

(b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.

(c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.

(d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

340.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California constitutions and all applicable laws, ordinances, and rules enacted or established pursuant to legal authority.

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Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

340.4.1 PERFORMANCE IMPROVEMENT PROGRAM (PIP)

A Department Director may, to improve an Employee's performance of his/her normal duties to a "satisfactory" level, direct an Employee to participate in, and comply with the provisions of, a PIP. The Department Director shall fully explain to the Employee the terms, conditions and provisions of the PIP prior to directing the Employee to participate in the PIP. The PIP shall be designed to provide the Employee with any training or education necessary to improve performance of the Employee's normal duties to a satisfactory level and shall include provisions that give the Employee the opportunity to comment on evaluations of performance during the PIP. The Employee shall not be entitled to any prior written notice of, or a right to respond to or appeal, a decision to implement a PIP.

340.4.2 DISCIPLINARY SUSPENSION

An Employee may be suspended or suffer a reduction (permanently or temporarily) in pay, accrued paid leave or Salary Step when previous discipline has not been effective or when the misconduct is sufficiently serious to warrant such discipline.

Suspension days shall be scheduled on the next working day following the date of imposition of the suspension, except as otherwise approved by the Chief of Police.

Confidentiality provisions of disciplinary actions generally restrict distinctive identification of suspension days on published department schedules.

340.4.3 DEMOTION

The Department Director may demote an Employee in the event of serious misconduct or in the event the Employee consistently fails to perform at a satisfactory level after receiving the training and counseling necessary to perform at a satisfactory level. Upon request of the Employee, and with the consent of the Department Director, demotion may be made to a vacant Position. No Employee shall be demoted to a Position unless he or she possesses the minimum qualifications for the Position.

340.4.4 DISCHARGE

Discharge is appropriate when other appropriate progressive disciplinary measures have failed, when misconduct is sufficiently serious, or when the Employee does not possess the minimum qualifications for his/her Position.

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340.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service:

340.5.1 LAWS, RULES AND ORDERS

(a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or City manuals.

(b) Disobedience of any legal directive or order issued by any department member of a higher rank.

(c) Violation of federal, state, local or administrative laws, rules or regulations.

340.5.2 ETHICS

(a) Using or disclosing one’s status as a member of the Newport Beach Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for nondepartment business or activity.

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

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

(d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.

(e) Offer or acceptance of a bribe or gratuity.

(f) Misappropriation or misuse of public funds, property, personnel or services.

(g) Any other failure to abide by the standards of ethical conduct.

340.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

Unless required by law or policy, discriminating against, oppressing, or providing favoritism to any person because of actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, economic status, cultural group, veteran status, marital status, and any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful.

340.5.4 RELATIONSHIPS

(a) Unwelcome solicitation of a personal or sexual relationship while onduty or through the use of one’s official capacity.

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(b) Engaging in on-duty sexual activity, including but not limited to sexual intercourse, excessive displays of public affection, or other sexual contact.

(c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect, or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.

(d) Associating with or joining a criminal gang, organized crime, and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.

(e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

(f) Participation in a law enforcement gang as defined by Penal Code § 13670. Participation is grounds for termination (Penal Code § 13670).

340.5.5 ATTENDANCE

(a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.

(b) Unexcused or unauthorized absence or tardiness.

(c) Excessive absenteeism or abuse of leave privileges.

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

340.5.6 UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

(a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms, or reports obtained as a result of the member's position with this department.

(b) Disclosing to any unauthorized person any active investigation information.

(c) The use of any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.

(d) Loaning, selling, allowing unauthorized use, giving away, or appropriating any department property for personal use, personal gain, or any other improper or unauthorized use or purpose.

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

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340.5.7 EFFICIENCY

(a) Neglect of duty.

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

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

(d) Unauthorized sleeping during on-duty time or assignments.

(e) Failure to notify the Department within 24 hours of any change in residence address or contact numbers.

(f) Failure to notify the Personnel Department of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

340.5.8 PERFORMANCE

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

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

(c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department related business.

(d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.

(e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.

(f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:

1. While on department premises.
2. At any work site, while onduty or while in uniform, or while using any department equipment or system.
3. Gambling activity undertaken as part of an officer official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.

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(g) Improper political activity including:

1. Unauthorized attendance while onduty at official legislative or political sessions.
2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while onduty or, on department property except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.

(h) Engaging in political activities during assigned working hours except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.

(i) Any act on or offduty that brings discredit to this department.

340.5.9 CONDUCT

(a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.

(b) Unreasonable and unwarranted force to a person encountered or a person under arrest.

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

(d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.

(e) Engaging in horseplay that reasonably could result in injury or property damage.

(f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.

(g) Use of obscene, indecent, profane or derogatory language while onduty or in uniform.

(h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member’s relationship with this department.

(i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.

(j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.

(k) Activity that is incompatible with a member’s conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.

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

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(m) Any other on or offduty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

340.5.10 SAFETY

(a) Failure to observe or violating department safety standards or safe working practices.

(b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).

(c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.

(d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.

(e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.

(f) Unsafe or improper driving habits or actions in the course of employment or appointment.

(g) Any personal action contributing to a preventable traffic collision.

(h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

340.5.11 INTOXICANTS

(a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.

(b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.

(c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

340.6 APPEAL TO CIVIL SERVICE BOARD

An employee may appeal the decision of the Human Resources Director or the City Manager, as appropriate, imposing any demotion, suspension, or any reduction in pay, Salary Step or accrued paid leave. A Regular Employee may appeal the decision of the Human Resources Director or City Manager discharging the Employee. An appeal shall be filed by serving a Notice of Appeal on the Secretary of the Civil Service Board (Human Resources Director). The Notice of Appeal must be filed within (10) Days from receipt of the decision of the Human Resources Director or City Manager. The Civil Service Board shall schedule and conduct a hearing in accordance with procedural rules adopted by the Civil Service Board. In the case of Civil Service Employees, the decision of the Civil Service Board shall be final. In the case of Non-Civil Service Employees, the

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decision of the Civil Service Board shall be advisory and the record of the hearing/decision shall be submitted to the City Manager for a final decision.

340.7 FINAL DECISION

The City Manager shall render the final decision on all appeals of discipline submitted to the Civil Service Board by Non-Civil Service Board Employees. The City Manager shall review the record of the hearing before the Civil Service Board, including the findings and decision, and render a decision within (20) Days after the record is submitted by the Secretary of the Civil Service Board. The City Manager shall give written notice of his/her decision to the Employee and Department Director. The decision of the City Manager shall be supported by substantial evidence in the record of the hearing.

340.8 PREPARATION

An Employee shall not be permitted to research, write or prepare a grievance, disciplinary appeal or related document during his/her Workday except during meal periods and breaks.

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Departmental Audits

341.1 PURPOSE

An audit is a formal, periodic inspection of accounts, currency, property and evidence, records, or Department-owned equipment to verify accuracy and adherence to best practices. The purpose of the audit is not solely to verify compliance with applicable policies, procedures, statutes and codes, but also to identify areas that may need improvement or updating and to correct any procedural deficiencies noted during the audit. The Department will use the audit process, on an ongoing basis, to enhance the safekeeping of property and evidence and as a means to ensure the integrity of this policy. In order to maintain objectivity, audits should be conducted across divisional lines and not by members of the division being audited. In addition to the following audit schedules, Division Commanders have the discretion to initiate an audit at any time.

341.2 AUDIT TYPES AND SCHEDULES

The Department Property/Evidence Room, Department-maintained cash funds, and Department-owned property such as firearms, communications equipment, and vehicles will be audited annually.

341.2.1 PROPERTY/EVIDENCE ROOM

It is the policy of this Department to receive and safely store evidence, found property and property for safekeeping; and to restore the property to the rightful owner, or otherwise lawfully dispose of the property in a timely fashion.

- An audit of the Department's Property/Evidence Room will be completed under the direction of the Detective Division Commander by September 1st of every year.
- The audit will consist of a random sampling of (5) cases involving booked currency, (5) cases with booked firearms, (5) cases with booked jewelry, and (5) cases with booked narcotics. The audit should identify, physically locate, and account for the sampled items. The audit will include the following steps:
    (a) Select a sample from the Records Management System (RMS) involving property items and physically locate the items in the Property Room. Verify that the item's physical location, case number, and associated descriptions match the associated record in the RMS.
    (b) Select a sample of items stored in the Property Room and follow the corresponding item information back from the Property Room to the RMS. Determine that the item's physical location, case number, and associated descriptions match the associated record in the RMS.
    (c) Select a sample of closed cases. Verify and track the process from receipt of property by the booking officer to the disposal of the property.
    (d) Select a sample of items that have been temporarily checked out to the lab, court, another agency, or officer. Verify the chain of custody on these items.

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- The auditor can use his/her discretion to determine the variety of sampling from the above guidelines, as long as the sampling totals (5) cases for each of the prescribed property types.
- The results of the Audit Report will be presented to the Chief of Police by October 1st of every year.

341.2.2 INVESTIGATIVE AND EMERGENCY CASH FUNDS

- An audit of the investigative cash funds held in the Special Investigations Supervisor's safe and the emergency purpose cash funds held in the Support Services Division Commander's safe will be completed under the direction of the Patrol/Traffic Division Commander by October 1st of each year.
- The audit will verify the following:
  (a) The cash fund is still needed for the amount authorized.
  (b) A ledger system is employed that identifies the initial balance, cash received and disbursed, vouchers/receipts, and ending balance.
  (c) The sum of cash on-hand and receipts for expenditures is equal to the most recent ending balance.
  (d) The cash fund is secure.
- The results of the Audit Report will be presented to the Chief of Police by November 1st of every year.

341.2.3 OTHER DEPARTMENT CASH FUNDS

- An audit of the following Department held cash funds will include:
  (a) Public Assistance
  (b) Front Desk Petty Cash Fund
- The audit will verify the following:
  (a) The cash fund is still needed for the amount authorized.
  (b) A ledger system is employed that identifies the initial balance, cash received and disbursed, vouchers/receipts, and ending balance.
  (c) The sum of cash on hand and receipts for expenditures is equal to the most recent ending balance.
  (d) The cash fund is secure.
- The audit will be completed under the direction of the Detective Division Commander by October 1st of each year.
- The results of the Audit Report will be presented to the Chief of Police by November 1st of every year.

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341.2.4 DEPARTMENT-OWNED FIREARMS

- An audit of all Department-owned firearms will be completed by the Department Rangemaster and forwarded to the Support Services Commander by July 1st of each year.
- The Support Services Commander will have ten days to forward the approved Audit Report to the Chief of Police.

341.2.5 DEPARTMENT-OWNED COMMUNICATIONS EQUIPMENT

- An audit of all Department-owned communications equipment will be completed by the Communications Manager and forwarded to the Support Services Commander by January 1st of each year.
- The Support Services Commander will have ten days to forward the approved Audit Report to the Chief of Police.

341.2.6 DEPARTMENT FLEET

- An audit of the Department's entire fleet will be completed by the Senior Police Mechanic and forwarded to the Support Services Commander by October 1st of each year.
- The audit will include all Department-owned and leased vehicles.
- The Support Services Commander will have ten days to forward the approved Audit Report to the Chief of Police.

341.3 AUDIT REPORTING

Using a methodical approach to conduct the audit will significantly reduce the time spent drafting and revising the audit report. The purpose and scope of the audit must be established before the audit begins. The final audit report should bypass intermediate levels and go directly to Division Commander, who will then forward it to the Chief of Police. Any discrepancies discovered during the audit must be noted in the Audit Report and corrective action should be immediately taken to rectify the situation(s).

341.3.1 DOCUMENTATION

All audit reports will be documented on a Memorandum Form (NBPD Form 1.23).

The report will address department, division, and section operations. At a minimum, the report will:

- Discuss if objectives are being accomplished.
- Establish to what extent operations are in compliance with policies and procedures.
- Analyze the organizational and accounting procedures that are used to manage the property, equipment, or fund being audited.

341.3.2 GENERAL REPORTING RULES

The following standard audit format shall be used in preparing thorough and well-written Audit Reports. The essential sections of the Audit Report are:

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- Purpose- This section will be the introduction of the report and will briefly explain the goals of the audit.
- Methodology- The methodology is an explanation of the procedures used to achieve the stated goals of the audit. The purpose of completing a methodology statement is to ensure that:
  (a) The range of the audit is defined.
  (b) The auditor is familiar with all policies and procedures affecting the audit.
  (c) The audit is completed in an efficient and organized manner.
- Findings- A statement listing an overview of the findings may be helpful when beginning this section. Both positive and negative findings should be noted. The findings should be summarized and listed in order of importance. Facts and supporting data from this section will be used to support conclusions made in the *Recommendations* section of the audit.
- Recommendations- This section will contain recommendations to resolve problems and issues that were found during the audit. Recommendations should concisely indicate possible corrective actions and if necessary, an entity who could execute those actions.
- Auditor's Comments- The comments section will contain the auditor's opinion(s) concerning the findings and the overall efficiency of the unit being audited.-
- Appendices- All relevant supplemental materials that are referred to in the Audit Report should be attached as the appendices. Each supplemental item in the appendices should be given a page number. When referencing an appendices page in the Audit Report, the page number should be clearly noted with parenthesis at the end of the sentence.

341.4 AUDIT RESULTS

At the conclusion of the audit, the auditor will forward the completed report to the commander of the division that was audited. The Division Commander will be given a reasonable time period to review the report, address concerns, and take corrective action as necessary.

After the Audit Report has been approved by the Division Commander it will be forwarded to the Chief of Police for review. At the discretion of the Chief of Police, the results of each audit will be shared with other members of the Management Team. In the event an inconsistency or concern is identified during an audit, the Professional Standards Unit will be assigned to conduct further investigation and report their findings to the Chief of Police.

Division Commanders shall be familiar with and maintain a copy of all Audit Reports concerning each division under their command. The Chief of Police will forward all original Audit Reports to the Professional Standards Unit where the reports will be uploaded and stored electronically.

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Department Computer Use and Email

342.1 PURPOSE AND SCOPE

This policy describes the use of department computers, software and systems.

342.1.1 PRIVACY POLICY

Any employee utilizing any computer, electronic storage device or media, Internet service, phone service, information conduit, system or other wireless service provided by or funded by the Department expressly acknowledges and agrees that the use of such service, whether for business or personal use, shall remove any expectation of privacy the employee, sender and recipient of any communication utilizing such service might otherwise have, including as to the content of any such communication. The Department also expressly reserves the right to access and audit any and all communications, including content that is sent, received and/or stored through the use of such service.

342.2 DEFINITIONS

The following definitions relate to terms used within this policy:

Computer System - Shall mean all computers (on-site and portable), hardware, software, and resources owned, leased, rented, or licensed by the Newport Beach Police Department, which are provided for official use by agency employees. This shall include all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the agency or agency funding.

Hardware - Shall include, but is not limited to, computers, computer terminals, network equipment, modems or any other tangible computer device generally understood to comprise hardware.

Software - Shall include, but is not limited to, all computer programs and applications including "shareware." This does not include files created by the individual user.

Temporary File or **Permanent File** or **File -** Shall mean any electronic document, information or data residing or located, in whole or in part, whether temporarily or permanently, on the system, including but not limited to spreadsheets, calendar entries, appointments, tasks, notes, letters, reports or messages.

342.3 SYSTEM INSPECTION OR REVIEW

There is no expectation of privacy in the use of City computer systems by employees. The City has the right to, and may, monitor the City's computer system for any reason and without notice, including a review or audit of messages or information sent over and/or stored in the system, and sites accessed via the Internet or other information systems. Employees are advised that personal messages, documents or information sent over, or stored in, the system, may be discovered as a result of a review or audit and will be disclosed in the context of disciplinary proceedings.

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342.4 AGENCY PROPERTY

Department owned computer hardware or software is not to be removed from the workplace without prior permission of the Chief of Police or their Division Commander. Any employee removing equipment from the premises is responsible for its safe operation, transportation and care.

Employees must first get permission from the Chief of Police or their Division Commander to use their own computer equipment on Department premises. Employees using their own computer equipment do so at their own risk.

Employees may not attach any non-Departmental computers or computer equipment to the local area network without prior authorization from the Chief of Police or their Division Commander.

All information, data, documents, communications, and other entries initiated on, sent to or from, or accessed on any department computer, or through the department computer system on any other computer, whether downloaded or transferred from the original department computer, shall remain the exclusive property of the Department and shall not be available for personal or non-departmental use without the expressed authorization of an employee's supervisor.

342.5 UNAUTHORIZED USE OF SOFTWARE

Employees shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes in accordance with the software company's copyright and license agreement. To reduce the risk of computer virus or malicious software infection, employees shall not install any unlicensed or unauthorized software on any department computer. Employees shall not install personal copies of any software onto any department computer. Any files or software that an employee finds necessary to upload onto a department computer or network shall be done so only with the approval of the department IT specialist and only after being properly scanned for malicious attachments.

No employee shall knowingly make, acquire or use unauthorized copies of computer software not licensed to the agency while on agency premises or on an agency computer system. Such unauthorized use of software exposes the agency and involved employees to severe civil and criminal penalties.

342.6 COMPUTER USE

City owned computer equipment and systems are to be used primarily for City business. However, City computer equipment and information systems may be operated or accessed for occasional and incidental personal use provided that the use does not:

- Directly or indirectly interfere with City operation of computing facilities or email services, or involve access to Departmental Records systems or other officially restricted records or data sources
- Interfere with an employee's performance of his/her duties or other obligations to the City

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- Involve the regular operation of a private commercial enterprise operated by or employing the employee
- Involve the transmission of messages or access to Internet sites, message boards or other interactive or non-interactive information sources or systems that are derogatory, discriminatory, defamatory, obscene or harmful to the City or mission of the Department, or involve access to "chat rooms" or similar interactive messaging systems
- Violate any Department Policy, or any other applicable law, rule or regulation, including restrictions on the access or use of confidential information or criminal history, conflict of interest, harassment, defamation, copyright violation or any illegal activity.

Messages or documents created or transmitted on, to or through the City computer system by any employee shall not contain personal attacks on any City official or employee, any material which constitutes harassment, discrimination or retaliation on the basis of race, gender, ethnicity, religion or other statutorily or constitutionally impermissible basis, or any pornographic, obscene, or sexually oriented material, except as necessary in the course of duty and with supervisory approval.

Employees are advised that the City may be required to disclose information, documents or messages, including personal messages and documents, sent over and/or stored in the computer system pursuant to requests filed under the Public Records Act or as a result of subpoenas issued in the context of litigation or administrative proceedings. Employees should be aware that deletion of a message or file may not fully eliminate the information from the computer system.

Information, documents and messages sent over and/or stored in the system in violation of this policy will be disclosed in the context of disciplinary proceedings.

No employee shall deliberately degrade, or attempt to degrade, the performance of any information system including computers, microcomputers, networks, telephone systems or video equipment, or intentionally deprive authorized personnel of resources or access to any City information system.

342.6.1 EMPLOYEE RESPONSIBILITY TO CHECK EMAIL

All employees shall log on to their department email accounts each work day to ensure timely receipt of:

- Important messages relating to job duties and work responsibilities
- Electronic subpoenas

342.7 PROTECTION OF AGENCY SYSTEMS AND FILES

All employees have a duty to protect the system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care, and maintenance of the system.

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Department Computer Use and Email

It is expressly prohibited for an employee to allow an unauthorized user to access the system at any time or for any reason.

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Report Preparation

344.1 PURPOSE AND SCOPE

Report preparation is a major part of each officer's job. The purpose of reports is to document sufficient information to refresh the officer's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

344.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Employees who dictate reports shall use appropriate grammar, as content is not the responsibility of the typist. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

344.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department approved form unless otherwise approved by a supervisor.

344.2.1 CRIMINAL ACTIVITY

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution. Activity to be documented in a written report includes:

(a) All arrests

(b) All felony crimes

(c) Non-Felony incidents involving threats or stalking behavior

(d) Situations covered by separate policy. These include:

1. Use of Force Policy
2. Domestic Violence Policy

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3. Child Abuse Policy
4. Senior and Disability Victimization Policy
5. Hate Crimes Policy
6. Suspicious Activity Reporting Policy

(e) All misdemeanor crimes where the victim desires a report

Misdemeanor crimes where the victim does not desire a report shall be documented using the department-approved alternative reporting method (e.g., dispatch log).

344.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

(a) Anytime an officer points a firearm at any person

(b) Any use of force against any person by a member of this department (see the Use of Force Policy)

(c) Any firearm discharge (see the Firearms Policy)

(d) Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)

(e) Any found property or found evidence

(f) Any traffic collisions above the minimum reporting level (see Traffic Collision Reporting Policy)

(g) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy

(h) All protective custody detentions

(i) Suspicious incidents that may place the public or others at risk

(j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

344.2.3 DEATH CASES

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with the Death Investigations Policy. The handling officer should notify and apprise a supervisor of the circumstances surrounding the incident to determine how to proceed. The following cases shall be appropriately investigated and documented using the approved report:

(a) Sudden or accidental deaths.

(b) Suicides.

(c) Homicide or suspected homicide.

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(d) Unattended deaths (No physician or qualified hospice care in the 20 days preceding death).

(e) Found dead bodies or body parts.

344.2.4 CPI

An officer shall be assigned to investigate and report the following situations:

- Traffic collisions involving city vehicles or possible city liability
- Injuries to citizens that may involve city liability
- Requests for property damage reporting from another city department supervisor

Note: Supervisors approving CPI reports shall ensure that the report is stamped "CPI."

344.2.5 MISCELLANEOUS INJURIES

Any injury that is reported to this department shall require a report when:

(a) The injury is a result of drug overdose

(b) Attempted suicide

(c) The injury is major/serious, whereas death could result

(d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

344.2.6 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES

A report shall be taken when any incident in which a child 18 years or younger suffered an unintentional or self-inflicted gunshot wound. The Records Section shall notify the State Department of Health Services (DOH) of the incident as required by CDPH (Penal Code § 23685).

344.2.7 ALTERNATE REPORTING FOR VICTIMS

Reports that may be submitted by the public via online or other self-completed reporting processes include:

(a) Lost property.

(b) Misdemeanor thefts of property, other than firearms or materials that threaten public safety, when there is no suspect information, serial number or ability to trace the item.

1. Misdemeanor thefts of cellular telephones may be reported even though they have a serial number.

(c) Misdemeanor vandalism with no suspect information and no hate crime implications.

(d) Vehicle burglaries with no suspect information or evidence.

(e) Stolen vehicle attempts with no suspect information or evidence.

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(f) Annoying telephone calls with no suspect information.

(g) Identity theft without an identifiable suspect.

(h) Online or email fraud solicitations without an identifiable suspect and if the financial loss classifies the crime as a misdemeanor.

(i) Hit-and-run vehicle collisions with no suspect or suspect vehicle.

(j) Supplemental property lists.

Members at the scene of one of the above incidents should not refer the reporting party to an alternate means of reporting without authorization from a supervisor. Members may refer victims to online victim assistance programs (e.g., Federal Communications Commission (FCC) website for identity theft, Internet Crime Complaint Center (IC3) website for computer crimes).

344.3 GENERAL POLICY OF EXPEDITIOUS REPORTING

In general, all officers and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

344.3.1 GENERAL POLICY OF HANDWRITTEN REPORTS

Some incidents and report forms lend themselves to block print rather than typing. In general, the narrative portion of those reports where an arrest is made or when there is a long narrative should be typed or dictated.

Supervisors may require, with the foregoing general policy in mind, block printing or typing of reports of any nature for department consistency.

344.3.2 GENERAL USE OF OTHER HANDWRITTEN FORMS

County, state and federal agency forms may be block printed as appropriate. In general, the form itself may make the requirement for typing apparent.

344.4 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Records Section for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records Section may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.

344.5 TELEPHONIC REPORTS

The following reports may be taken telephonically as (1) there is no immediate threat to life or property; (2) there is no possibility of immediate apprehension of the suspect; and (3) there is no physical evidence:

- Vandalism
- Garage burglary

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- Annoying, disturbing, lewd, threatening, or obscene phone calls
- Petty or grand theft
- Missing persons
    - Exception: The call originates locally and involves suspicious circumstances or the person missing is under 12 years of age
- Injury (Exception: CPI)
- Disturbing the peace
- Assault or battery
- Stolen bicycle
- Found or recovered bicycle (when the bicycle has been recovered by the owner or found and no other reports are required)
- Defraud innkeeper
- Lost property
- Supplemental
    - Exception: Supplemental reports containing lengthy or detailed descriptions of property or suspects

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Media Relations

346.1 PURPOSE AND SCOPE

This policy provides guidelines for the release of official department information to the media. It also addresses coordinating 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. In situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Division Commanders, Watch Commanders, and designated Press Information Officers (PIOs) may prepare and release information to the media in accordance with this policy and the applicable laws regarding confidentiality.

346.3 ACCESS

Authorized media representatives shall be provided access to scenes of disasters, criminal investigations, emergencies, and other law enforcement activities as required by law.

Access by the media is subject to the following conditions (Penal Code § 409.5(d)):

(a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public. 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.

    1. Based upon available resources, reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the PIO or other designated spokesperson.

(c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved member (Government Code § 3303(e)).

(d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the express consent of the person in custody.

346.3.1 CRITICAL OPERATIONS

A critical incident or tactical operation should be handled in the same manner as a crime scene, except the media should not be permitted within the inner perimeter of the incident, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a critical incident or tactical operation in order to accommodate the media. All comments to the media shall be coordinated through a supervisor or the PIO.

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346.3.2 TEMPORARY FLIGHT RESTRICTIONS

Whenever the presence of media or other aircraft pose a threat to public or member safety or significantly hamper incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration (FAA) should be contacted (14 CFR 91.137).

346.4 PUBLIC SPEAKING APPEARANCES

REQUESTS FOR PUBLIC SPEAKING APPEARANCES

Requests for public speaking appearances shall be referred to the Community Relations Officer.

PROCEDURE

Upon receipt of a public speaking request, the Community Relations Officer shall:

- Complete the top portion of the Public Speaking Report (15.20)
- Advise the person requesting that confirmation will be made later
- Forward the original and one copy of the report to the appropriate Division Commander or Watch Commander
- Retain one copy of the report in file

Upon receipt of a Public Speaking Report form, the Division Commander or Watch Commander shall:

- Assign an employee to handle the speaking request
- Give the assigned employee the original copy of the Public Speaking Report (15.20)
- Review the Public Speaking Report after completion by the assigned employee and forward it to the Community Relations Officer

The employee assigned to handle a public speaking request shall:

- Confirm the speaking appearance with the requesting person
- Obtain any needed special materials or visual aids
- Complete the Public Speaking Report (15.20) after the appearance and return it to the Division Commander or Watch Commander

346.5 POLICY

It is the policy of the Newport Beach Police Department to protect the privacy rights of individuals, while releasing non-confidential information to the media regarding topics of public concern. Information that has the potential to negatively affect investigations will not be released.

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346.6 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of department members and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception, the Chief of Police will consider, at a minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person, or is otherwise prohibited by law.

346.7 MEDIA REQUESTS

Any media request for information or access to a law enforcement incident shall be referred to the PIO, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, members shall consider the following:

(a) At no time shall any member of this department make any comment or release any official information to the media without prior approval from a supervisor or the PIO.

(b) In situations involving multiple agencies or government departments, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.

(c) Under no circumstance should any member of this department make any comments to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police. Under these circumstances the member should direct the media to the agency handling the incident.

346.8 CONFIDENTIAL OR RESTRICTED INFORMATION

It shall be the responsibility of the PIO to ensure that confidential or restricted information is not inappropriately released to the media (see the Records Maintenance and Release and Personnel Records policies). When in doubt, authorized and available legal counsel should be consulted prior to releasing any information.

346.8.1 EMPLOYEE INFORMATION

The identities of officers involved in shootings or other critical incidents may only be released to the media upon the consent of the involved officer or upon a formal request filed.

Any requests for copies of related reports or additional information not contained in the information log (see the Information Log section in this policy), including the identity of officers involved in shootings or other critical incidents, shall be referred to the PIO.

Requests should be reviewed and fulfilled by the Custodian of Records, or if unavailable, the Watch Commander or the authorized designee. Such requests will be processed in accordance with the provisions of the Records Maintenance and Release Policy and public records laws.

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346.9 RELEASE OF INFORMATION

The Department may routinely release information to the media without receiving a specific request. This may include media releases regarding critical incidents, information of public concern, updates regarding significant incidents, or requests for public assistance in solving crimes or identifying suspects. This information may also be released through the department website or other electronic data sources.

346.9.1 INFORMATION LOG

The Department will maintain a daily information log of significant law enforcement activities. Log entries shall only contain information that is deemed public information and not restricted or confidential by this policy or applicable law. Upon request, the log entries shall be made available to media representatives through the Watch Commander.

The daily information log will generally include:

(a) The date, time, location, case number, type of crime, extent of injury or loss, and names of individuals 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, or the information is confidential (e.g., juveniles or certain victims).

(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 or the information is confidential (e.g., juveniles).

(c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident.

At no time shall identifying information pertaining to a juvenile arrestee (13 years of age and under), victim, or witness be publicly released without prior approval of a competent court. The identity of a minor 14 years of age or older shall not be publicly disclosed unless the minor has been arrested for a serious felony and the release of such information has been approved by the Watch Commander (Welfare and Institutions Code § 827.5).

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner.

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated department media representative, the custodian of records, or if unavailable, to the Watch Commander. Such requests will generally be processed in accordance with the provisions of the Public Records Act (see the Records Maintenance and Release Policy).

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Subpoenas and Court Appearances

348.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the acceptance of subpoenas and for the department members who must appear in court.

348.1.1 DEFINITIONS

On-Call - When an employee receives a subpoena of a type which allows him or her to not appear in court, but remain available by phone so that he or she may be directed to appear in court within a reasonable amount of time.

Trailing Status - When an employee remains on standby status for additional court sessions until notified otherwise.

Mandatory Appearance - Subpoenas marked as mandatory appearance require an employee's physical appearance in the specified court. Failure to timely appear in the specified court, either intentionally or by negligence, may result in disciplinary action.

348.2 SUBPOENA POLICY

Newport Beach Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

348.2.1 SERVICE OF SUBPOENA

Service of a subpoena requiring the appearance of any department employee in connection with a matter arising out of the employee's course and scope of official duties may be accomplished by personal service on the employee, other authorized departmental employee or InTime notification (Government Code § 68097.1; Penal Code § 1328(c)).

348.2.2 VALID SUBPOENAS

No subpoena shall be accepted for an employee of this department unless it has been properly served and verified to have originated from a recognized legal authority.

348.2.3 ACCEPTANCE OF CRIMINAL SUBPOENA

(a) Only the employee named in a subpoena or authorized department employee, shall be authorized to accept service of criminal subpoenas. (Penal Code § 1328(c)). Any authorized employee accepting a subpoena shall immediately provide a copy of the subpoena to the Court Liaison. The Court Liaison shall enter the subpoena into the InTime scheduling system and promptly provide a copy of the subpoena to each involved employee.

(b) Any authorized individual accepting a subpoena on behalf of another employee shall immediately check available schedules to determine the availability of the named employee for the date listed on the subpoena.

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348.2.4 REFUSAL OF SUBPOENA

Except where previous arrangements with the issuing court exist, training, vacations and regularly scheduled days off are not valid reasons for refusing a subpoena. However, one or more of the above reasons are acceptable reasons to submit a request to be excused from court via NBPD form 15.10.5 - Request for Non-Appearance on Subpoena (see Lexipol section 348.2.8).

If, due to illness or injury, the named employee is unable to appear in court as directed by a previously served subpoena, he/she shall, at least one hour before the appointed date and time, inform the Court Liaison Officer and/or the Watch Commander of his/her absence. It shall then be the responsibility of the Court Liaison Officer or Watch Commander to notify the issuing authority of the employee's unavailability to appear.

If the immediate supervisor or other authorized individual knows that he/she will be unable to deliver a copy of the subpoena to the named employee within sufficient time for the named employee to comply with the subpoena, the supervisor or other authorized individual may refuse to accept service (Penal Code § 1328(d)).

If a subpoena is presented for service to an immediate supervisor or other authorized individual less than five working days prior to the date listed for an appearance and the supervisor or other authorized individual is not reasonably certain that the service can be completed, he/she may refuse to accept service (Penal Code § 1328(e)).

If, after initially accepting service of a subpoena, a supervisor or other authorized individual determines that he/she will be unable to deliver a copy of the subpoena to the individually named employee within sufficient time for the named employee to comply with the subpoena, the supervisor or the subpoena clerk shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

348.2.5 COURT ON-CALL

To facilitate on-call agreements with the courts, employees are required to provide and maintain current information on their address and phone number with the Department. Employees are required to notify the Department within 24 hours of any change in residence address or phone number, and to provide accurate and reasonably reliable means or methods for contact. On-call times shall follow Department *Court On-Call Times* guide and be in accordance with current Court policies for the court issuing the subpoena or as specified by the assigned Deputy District Attorney.

Employees are required to remain on-call each day the case is trailing and/or as specified by the assigned Deputy District Attorney. In a criminal case, the Deputy District Attorney handling the case is the only person authorized to excuse an employee from on-call status.

Employees are required to make their own "on-call" arrangements when subpoenaed to appear in courts other than OC Superior Courts.

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348.2.6 OFF-DUTY RELATED SUBPOENAS

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

348.2.7 FAILURE TO APPEAR

Any employee who fails to comply with the terms of any valid and properly served subpoena may be subject to discipline as well as court imposed civil and/or criminal sanctions.

348.2.8 REQUEST FOR NON-APPEARANCE

The following procedures serve as general guidelines to follow when requesting non-appearance for a Subpoena. An employee who wishes to be excused from court shall submit NBPD form 15.10.5 - Request for Non-Appearance on Subpoena. Nothing in these guidelines should be interpreted by an employee as a "right" to refuse to respond to a lawfully issued Subpoena or Notice to Appear. The ultimate responsibility for following these procedures, and submitting a notice of non-appearance, lies with the employee. If there are exigent circumstances that require additional assistance, the Department's Court Liaison Officer or the employee's immediate supervisor should be contacted.

The OC District Attorney's Office and the OC Chiefs of Police Association have agreed to five (5) acceptable reasons for subpoena non-appearance:

(a) Pre-Scheduled and Approved Vacation Periods.

(b) Pre-Scheduled and Approved "Out of County" Training Courses.

(c) Military Leave.

(d) Long Term Illness or Disability with Physician Recommendation.

(e) Designated "Furlough Days" as required by City/County approved Contractual Employment Agreements/Memorandums of Understanding.

Excusing subpoenas under any of the above circumstances is usually a matter of routine; however, it is the employee's responsibility to ensure that the following procedures are followed.

Should the request for non-appearance fall within the 5 accepted reasons, the employee requesting non-appearance shall follow the below steps:

(a) Fill out and submit a Request for Non-Appearance on Subpoena form via the chain of command.

(b) Notify the Court Liaison Officer immediately of the pending request and case information.

(c) After the Court Liaison Officer has received the approved form – the employee will receive an emailed copy of the form, along with the date it will be submitted to the applicable Court.

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(d) Once the employee receives confirmation from the Court Liaison Officer that their request has been approved, and submitted to Court, the employee is considered by the Department to be excused from that appearance.

At times, it is necessary for an employee to request non-appearance for reasons other than those listed above. **A subpoena duces tecum is a legal order from the court, ordering appearance. Failure to comply is a criminal violation (PC §1331) and a violation of Department Policy (Lexipol 348.2.7)**. Only the Court can vacate an issued subpoena, but the assigned District Attorney can sometimes arrange to continue the case, re-schedule testimony, or agree not to call the subpoenaed employee as a witness.

If a request for non-appearance does **not** fall within one of the accepted reasons, it is the employee's personal responsibility to contact the appropriate party to request an excusal for that hearing date.

Should the request for non-appearance not fall within the 5 accepted reasons- the employee requesting non-appearance shall follow the below steps:

(a) The employee must personally contact the assigned DA and request to be excused from the scheduled hearing. The DA will need to explicitly agree that the employee may be released before any non-appearance form is submitted.

(b) If the DA has agreed to release the employee from the scheduled subpoena, the employee shall submit a Request for Non-Appearance on Subpoena form via the chain of command. On the non-appearance form, the employee shall note which DA the employee spoke with and summarize the final outcome of the conversation.

(c) Notify the Court Liaison Officer immediately of the pending request and case information.

(d) After the Court Liaison Officer has received the approved form, the employee will receive an emailed copy of the form, along with date it will be submitted to the applicable Court.

(e) Once the employee receives confirmation from the Court Liaison Officer that their request has been approved and submitted to Court, the employee is considered by the Department to be excused from that appearance.

348.3 CIVIL SUBPOENAS

The Department will compensate employees who appear in their official capacity on civil matters arising out of the employee's official duties as directed by the current Memorandum of Understanding. In such situations, the Department will also reimburse any officer for reasonable and necessary travel expenses.

The Department should seek reimbursement for the officer's compensation through the civil attorney of record who subpoenaed the officer.

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348.3.1 PROCEDURE

To ensure that the officer is able to appear when required, that the officer is compensated for such appearance, and to protect the Department's right to reimbursement, department members shall follow the established procedures for the receipt of a civil subpoena.

348.3.2 CIVIL SUBPOENA ACCEPTANCE

Subpoenas shall not be accepted in a civil action in which the employee or Department is not a party without properly posted fees pursuant to Government Code § 68097.6. Service of a civil subpoena may be refused if it does not allow reasonable time for proper service and preparation time for the employee.

(a) Only the employee named in a subpoena, or authorized individual, shall be authorized to accept service of civil subpoenas (Penal Code § 1328(c)). Any authorized employee accepting a subpoena shall immediately provide a copy of the subpoena to the Community Service Officer assigned to Payroll.

(b) Any department member accepting a subpoena on behalf of another employee shall immediately check available schedules to determine the availability of the named employee for the date listed on the subpoena.

348.3.3 PARTY MUST DEPOSIT FUNDS

The party in the civil action that seeks to subpoena an officer must deposit the statutory fee of $275 (Government Code § 68097.2) for each appearance before such subpoena will be accepted. Parties seeking to have the officer make multiple appearances must make an additional deposit in advance.

348.4 OVERTIME APPEARANCES

If the employee appeared on his/her off-duty time, he/she will be compensated in accordance with the current employee Memorandum of Understanding.

348.5 COURTROOM PROTOCOL

Employees must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are scheduled to appear.

348.5.1 PREPARATION FOR TESTIMONY

Before the date of testifying, the subpoenaed employee shall obtain a copy of relevant reports and become familiar with their content in order to be prepared for court.

348.5.2 COURTROOM ATTIRE

Employees shall dress in uniform or business attire. Suitable business attire for men would consist of a coat, tie, and dress pants. Suitable business attire for female employees would consist of a dress jacket, dress blouse, and skirt or slacks.

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348.6 COURTHOUSE DECORUM

Employees shall observe all rules of the court in which they are appearing, refrain from chewing gum in the courtroom, and shall remain alert to changes in the assigned courtroom where their matter is to be heard.

348.7 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify or provides information on behalf of or at the request of any party other than the City Attorney or the prosecutor shall notify his/her immediate supervisor without delay regarding:

(a) Any civil case where the City or one of its members, as the result of his/her official capacity, is a party.

(b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.

(c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.

(d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Newport Beach Police Department.

(e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Newport Beach Police Department.

The supervisor will then notify the Chief of Police and the appropriate prosecuting attorney as may be indicated by the case. The Chief of Police should determine is additional legal support is necessary.

No member shall be retaliated against for testifying in any matter.

348.8 ADMINISTRATIVE CITATION APPEAL REQUIREMENTS

Department members receiving a subpoena from the City Attorney's Office to appear for any administrative citation appeal are subject to all applicable policies under NBPD policy section 348, and shall treat that subpoena the same as any other subpoena listed in that policy.

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Reserve Officers

350.1 PURPOSE AND SCOPE

The Newport Beach Police Department Reserve Unit was established to supplement and assist regular sworn police officers in their duties, which includes prisoner transportation and other assignments. This unit provides professional, sworn reserve officers who serve at-will and can augment regular staffing levels.

350.2 SELECTION AND APPOINTMENT OF POLICE RESERVE OFFICERS

The Newport Beach Police Department shall endeavor to recruit and appoint to the Reserve Unit only those applicants who meet the high ethical, moral and professional standards set forth by this department.

350.2.1 PROCEDURE

All applicants shall be required to meet and pass the same pre-employment procedures as regular police officers before appointment.

Before appointment to the Police Reserve Unit, an applicant must have completed, or be in the process of completing, a POST approved basic academy or extended basic academy.

350.2.2 APPOINTMENT

Applicants who are selected for appointment to the Police Reserve Unit shall, on the recommendation of the Chief of Police, be sworn in by the Chief of Police and take a loyalty oath to observe and obey all of the laws of the land and to carry out their duties to the best of their ability.

350.2.3 COMPENSATION FOR POLICE RESERVE OFFICERS

Compensation for reserve officers is determined by the appropriate hourly rate step as set forth in the most current Part-Time Employee salary chart.

All reserve officer appointees are issued two sets of uniforms and all designated attire and safety equipment. All property issued to the reserve officer shall be returned to the Department upon termination or resignation. Reserves shall receive a yearly uniform allowance equal to that of regular officers.

350.3 DUTIES OF RESERVE OFFICERS

Reserve officers assist regular officers in the enforcement of laws and in maintaining peace and order within the community. Assignments of reserve officers will primarily involve prisoner transportation to augment the Patrol/Traffic Division. Reserve officers may be assigned to other areas within the Department as needed. Reserve officers are required to work a minimum of 16 hours per month.

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350.3.1 POLICY COMPLIANCE

Police reserve officers shall be required to adhere to all departmental policies and procedures. A copy of the policies and procedures will be made available to each reserve officer upon appointment and he/she shall become thoroughly familiar with these policies.

Whenever a rule, regulation, or guideline in this manual refers to a sworn regular full-time officer, it shall also apply to a sworn reserve officer unless by its nature it is inapplicable.

350.3.2 RESERVE OFFICER ASSIGNMENTS

All reserve officers will be assigned to duties by the Reserve Coordinator or his/her designee.

350.3.3 RESERVE COORDINATOR

The Chief of Police shall delegate the responsibility for administering the Reserve Officer Program to a Reserve Coordinator.

The Reserve Coordinator shall have the responsibility of, but not be limited to:

(a) Assignment of reserve personnel

(b) Conducting reserve meetings

(c) Establishing and maintaining a reserve call-out roster

(d) Maintaining and ensuring performance evaluations are completed

(e) Monitoring individual reserve officer performance

(f) Monitoring overall Reserve Program

(g) Maintaining liaison with other agency Reserve Coordinators

350.4 FIELD TRAINING

Penal Code § 832.6 requires Level II reserve officers, who have not been released from the immediate supervision requirement per the Completion of the Formal Training Process subsection, to work under the immediate supervision of a peace officer who possesses a Basic POST Certificate.

350.4.1 TRAINING OFFICERS

Officers of this department, who demonstrate a desire and ability to train reserve officers, may train the reserves during Phase II, subject to Watch Commander approval.

350.4.2 PRIMARY TRAINING OFFICER

Upon completion of the Academy, reserve officers will be assigned to a primary training officer. The primary training officer will be selected from members of the Field Training Officer (FTO) Committee. The reserve officer will be assigned to work with his/her primary training officer during the first 160 hours of training. This time shall be known as the Primary Training Phase.

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350.4.3 FIELD TRAINING MANUAL

Each new reserve officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the Newport Beach Police Department. The reserve officer shall become knowledgeable of the subject matter as outlined. He/she shall also become proficient with those skills as set forth in the manual.

350.4.4 COMPLETION OF THE PRIMARY TRAINING PHASE

At the completion of the Primary Training Phase, (Phase I) the primary training officer will meet with the Reserve Coordinator. The purpose of this meeting is to discuss the progress of the reserve officer in training.

If the reserve officer has progressed satisfactorily, he/she will then proceed to Phase II of the training. If he/she has not progressed satisfactorily, the Reserve Coordinator will determine the appropriate action to be taken.

350.4.5 SECONDARY TRAINING PHASE

The Secondary Training Phase (Phase II) shall consist of 100 hours of additional on-duty training. The reserve officer will no longer be required to ride with his/her primary training officer. The reserve officer may now ride with any officer designated by the Watch Commander.

During Phase II of training, as with Phase I, the reserve officer's performance will be closely monitored. In addition, rapid progress should continue towards the completion of the Officer's Field Training Manual. At the completion of Phase II of training, the reserve officer will return to his/her primary training officer for Phase III of the training.

350.4.6 THIRD TRAINING PHASE

Phase III of training shall consist of 24 hours of additional on-duty training. For this training phase, the reserve officer will return to his/her original primary training officer. During this phase, the training officer will evaluate the reserve officer for suitability to graduate from the formal training program.

At the completion of Phase III training, the primary training officer will meet with the Reserve Coordinator. Based upon the reserve officer's evaluations, plus input from the primary training officer, the Reserve Coordinator shall decide if the reserve officer has satisfactorily completed his/her formal training. If the reserve officer has progressed satisfactorily, he/she will then graduate from the formal training process. If his/her progress is not satisfactory, the Reserve Coordinator will decide upon the appropriate action to be taken.

350.4.7 COMPLETION OF THE FORMAL TRAINING PROCESS

When a reserve officer has satisfactorily completed all three phases of formal training, he/she will have had a minimum of 284 hours of on-duty training. He/she will no longer be required to ride with a reserve training officer. The reserve officer may now be assigned to ride with any officer for the remaining 200-hour requirement for a total of 484 hours before being considered for relief of immediate supervision.

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350.5 SUPERVISION OF RESERVE OFFICERS

Reserve officers who have attained the status of Level II shall be under the immediate supervision of a regular sworn officer (Penal Code 832.6). The immediate supervision requirement shall also continue for reserve officers who have attained Level I status unless special authorization is received from the Reserve Coordinator with the approval of the Division Commander.

350.5.1 SPECIAL AUTHORIZATION REQUIREMENTS

Reserve officers certified as Level I may, with prior authorization of the Reserve Coordinator and on approval of the Division Commander, be relieved of the "immediate supervision" requirement. Level I reserve officers may function under the authority of Penal Code § 832.6(a)(1) only for the duration of the assignment or purpose for which the authorization was granted.

In the absence of the Reserve Coordinator and the Division Commander, the Watch Commander may assign a certified Level I reserve officer to function under the authority of Penal Code § 832.6(a)(1) for specific purposes and duration.

350.5.2 RESERVE OFFICER MEETINGS

All reserve officer meetings will be scheduled and conducted by the Reserve Coordinator. All reserve officers are required to attend scheduled meetings. Any absences must be satisfactorily explained to the Reserve Coordinator.

350.5.3 IDENTIFICATION OF RESERVE OFFICERS

All reserve officers will be issued a uniform badge and a Department identification card. The uniform badge shall be the same as that worn by a regular full-time officer. The identification card will be the standard identification card with the exception that "Reserve" will be indicated on the card.

350.5.4 UNIFORM

Reserve officers shall conform to all uniform regulation and appearance standards of this department.

350.5.5 INVESTIGATIONS AND COMPLAINTS

If a reserve officer has a complaint made against him/her or becomes involved in an internal investigation, that complaint or internal investigation may be investigated by the Reserve Coordinator, at the discretion of the Chief of Police.

Reserve officers are considered at-will employees. Government Code § 3300 et seq. applies to reserve officers with the exception that the right to hearing is limited to the opportunity to clear their name.

Any disciplinary action that may have to be administered to a reserve officer shall be accomplished as outlined in the Policy Manual.

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350.5.6 RESERVE OFFICER EVALUATIONS

While in training reserves will be continuously evaluated using standardized daily and weekly observation reports. The reserve will be considered a trainee until all of the training phases have been completed. Reserves having completed their field training will be evaluated annually using performance dimensions applicable to the duties and authorities granted to that reserve.

350.6 FIREARMS REQUIREMENTS

Penal Code § 830.6(a)(1) designates a reserve officer as having peace officer powers during his/her assigned tour of duty, provided the reserve officer qualifies or falls within the provisions of Penal Code § 832.6.

350.6.1 CARRYING WEAPON ON DUTY

Penal Code § 830.6(a)(1) permits qualified reserve officers to carry a loaded firearm while on duty. It is the policy of this department to allow reserves to carry firearms only while on duty unless the qualified reserve officer possesses a valid CCW permit.

350.6.2 CONCEALED FIREARMS PROHIBITED

No reserve officer will be permitted to carry a concealed firearm while in an off-duty capacity, except those reserve officers who possess a valid CCW permit. An instance may arise where a reserve officer is assigned to a plainclothes detail for his/her assigned tour of duty. Under these circumstances, the reserve officer may be permitted to carry a weapon more suited to the assignment with the knowledge and approval of the supervisor in charge of the detail.

Any reserve officer who is permitted to carry a firearm other than the assigned duty weapon may do so only after verifying that the weapon conforms to departmental standards. The weapon must be registered by the reserve officer and be inspected and certified as fit for service by a departmental armorer.

Before being allowed to carry any optional firearm during an assigned tour of duty, the reserve officer shall have demonstrated his/her proficiency with said weapon.

When a reserve officer has satisfactorily completed all three phases of training (as outlined in the Field Training section), he/she may be issued a permit to carry a concealed weapon. The decision to issue a concealed weapon permit will be made by the Chief of Police with input from the Reserve Program Coordinator and administrative staff. In issuing a concealed weapon permit a reserve officer's qualification will be individually judged. A reserve officer's dedication to the program and demonstrated maturity, among other factors, will be considered before a concealed weapon permit will be issued. Once issued, the concealed weapon permit will be valid only for as long as the reserve officer remains in good standing as a Reserve Officer with the Newport Beach Police Department.

350.6.3 RESERVE OFFICER FIREARM TRAINING

All reserve officers are required to maintain proficiency with firearms used in the course of their assignments. Reserve officers shall comply with all areas of the firearms training section of the Policy Manual, with the following exceptions:

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(a) All reserve officers are required to qualify at least every other month

(b) Reserve officers may fire at the department approved range at least once each month and more often with the approval of the Reserve Coordinator

(c) Should a reserve officer fail to qualify over a two-month period, that reserve officer will not be allowed to carry a firearm until he/she has reestablished his/her proficiency

350.7 EMERGENCY CALL-OUT FOR RESERVE PERSONNEL

The Reserve Coordinator shall develop a plan outlining an emergency call-out procedure for reserve personnel.

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Outside Agency Assistance

352.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

352.2 POLICY

It is the policy of the Newport Beach Police Department to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this department.

352.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the Watch Commander's office for approval. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this department, the Watch Commander may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this department.

Officers may respond to a request for emergency assistance, however, they shall notify a supervisor of their activity as soon as practicable.

Arrestees may be temporarily detained by this department until arrangements for transportation are made by the outside agency. Probation violators who are temporarily detained by this department will not ordinarily be booked at this department. Only in exceptional circumstances, and subject to supervisor approval, will this department provide transportation of arrestees to other facilities on behalf of another agency.

When transportation assistance is rendered, a report shall be prepared and submitted by the handling member unless otherwise directed by a supervisor.

352.3.1 INITIATED ACTIVITY

Any on-duty officer who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Newport Beach Police Department shall notify his/her supervisor or the Watch Commander and Dispatch as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

352.4 REQUESTING OUTSIDE ASSISTANCE

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

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The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

352.5 REPORTING REQUIREMENTS

Incidents of outside assistance or law enforcement activities that are not documented in a crime report shall be documented in a general case report or as directed by the Watch Commander.

352.6 MANDATORY SHARING

Equipment and supplies purchased with federal funds or grants that require such equipment and supplies be shared with other agencies should be documented and updated as necessary by the Support Services Division Commander or the authorized designee.

The documentation should include:

(a) The conditions relative to sharing.

(b) The training requirements for:

1. The use of the supplies and equipment.
2. The members trained in the use of the supplies and equipment.

(c) Any other requirements for use of the equipment and supplies.

Copies of the documentation should be provided to Dispatch and the Watch Commander to ensure use of the equipment and supplies is in compliance with the applicable sharing agreements.

The Training Manager should maintain documentation that the appropriate members have received the required training.

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Registered Offender Information

356.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Newport Beach Police Department will address issues associated with certain offenders who are residing in the jurisdiction and how the Department will disseminate information and respond to public inquiries for information about registered sex, arson and drug offenders.

356.2 POLICY

It is the policy of the Newport Beach Police Department to identify and monitor registered offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

356.3 REGISTRATION

The Special Victims Unit supervisor shall establish a process to reasonably accommodate registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome, or difficult for compliance. If it is reasonable to do so, an investigator assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community. Those assigned to register offenders should receive appropriate training regarding the registration process.

Upon conclusion of the registration process, the investigator shall ensure that the registration information is provided to the California Department of Justice (DOJ) in accordance with applicable law (Penal Code § 457.1; Penal Code § 290 et seq.).

The refusal of a registrant to provide any of the required information or complete the process should initiate a criminal investigation for failure to register.

356.3.1 CONTENTS OF REGISTRATION

The information collected from the registering offenders shall include a signed statement as required by the California DOJ, fingerprints and a photograph, and any other information required by applicable law (Penal Code § 457.1; Penal Code § 290 et seq.).

356.4 MONITORING OF REGISTERED OFFENDERS

The Special Victims Unit supervisor should establish a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration. This verification should include:

(a) Efforts to confirm residence using an unobtrusive method, such as an internet search or drive-by of the declared residence.

(b) Review of information on the California DOJ website for sex offenders.

(c) Contact with a registrant's parole or probation officer.

Any discrepancies should be reported to the California DOJ.

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The Special Victims Unit supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Newport Beach Police Department personnel, including timely updates regarding new or relocated registrants.

356.5 DISSEMINATION OF PUBLIC INFORMATION

Members will not unilaterally make a public notification advising the community of a particular registrant's presence in the community. Members who identify a significant risk or other public safety issue associated with a registrant should promptly advise their supervisor. The supervisor should evaluate the request and forward the information to the Chief of Police if warranted. A determination will be made by the Chief of Police, with the assistance of legal counsel as necessary, whether such a public alert should be made.

Members of the public requesting information on sex registrants should be provided the Megan's Law website or the Newport Beach Police Department's website. Information on sex registrants placed on the Newport Beach Police Department's website shall comply with the requirements of Penal Code § 290.46.

The Records Manager may release local registered offender information to residents only in accordance with applicable law and in compliance with a California Public Records Act request (Government Code § 7920.000 et seq.; Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1).

356.5.1 LIMITED RELEASE WITHIN COLLEGE CAMPUS COMMUNITY

California law allows the following additional information regarding a registered sex offender on campus, whose information is not available to the public via the internet website, to be released to a campus community (Penal Code § 290.01(d)):

(a) The offender’s full name

(b) The offender’s known aliases

(c) The offender’s sex

(d) The offender’s race

(e) The offender’s physical description

(f) The offender’s photograph

(g) The offender’s date of birth

(h) Crimes resulting in the registration of the offender under Penal Code § 290

(i) The date of last registration

For purposes of this section, campus community shall be defined as those persons present at or regularly frequenting any place constituting campus property, satellite facilities, laboratories, public areas contiguous to the campus and other areas set forth in Penal Code § 290.01(d).

356.5.2 RELEASE NOTIFICATIONS

Registrant information that is released should include notification that:

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Registered Offender Information

(a) The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.

(b) The information is provided as a public service and may not be current or accurate.

(c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.

(d) The crime for which a person is convicted may not accurately reflect the level of risk.

(e) Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.

(f) The purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders (Penal Code 290.45).

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Major Incident Notification

358.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of this department in determining when, how and to whom notification of major incidents should be made.

358.2 POLICY

The Newport Beach Police Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

358.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police and the affected Division Commander. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides
- Fatal traffic accidents or officer-involved traffic accidents with serious injuries
- Officer-involved shooting - on or off duty (see Officer-Involved Shooting Policy for special notifications)
- Significant injury or death to employee on- or off-duty
- Death of a prominent Newport Beach official
- Arrest of a department employee or prominent Newport Beach official
- Aircraft crash with major damage and/or injury or death
- In-custody deaths or serious injuries

358.4 WATCH COMMANDER RESPONSIBILITY

The Watch Commander is responsible for making the appropriate notifications and should make reasonable attempts to obtain as much information on the incident as possible before notification. The Watch Commander shall attempt to make the notifications as soon as practicable. Notification should be made by calling the Department cellular telephone number firstand the home telephone number second. The Watch Commander shall assign a supervisor to conduct a preliminary investigation of the incident. The supervisor's responsibilities include:

(a) Take appropriate action to neutralize and control the situation

(b) Ensure control and containment of the incident scene(s)

(c) Perform other duties as required

358.4.1 STAFF NOTIFICATION

In the event an incident occurs described in Policy Manual § 358.2, the Watch Commander shall notify the Chief of Police, the affected Division Commander, and the Executive Officer. If the

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incident results in serious injury or death, the Watch Commander shall initiate the Peer Support Team. In the event of a death, the Watch Commander is also responsible for notifying the Orange County Coroner.

Chief of Police: Depending on the nature of the incident, the Chief of Police may request a call-out of the Administrative Investigation Team and/or designate a command level officer to serve as Incident Commander. The order of precedence for selection of the Incident Commander is as follows: 1. Detective Commander; 2. Support Services Commander; 3. Patrol/Traffic Commander. The Chief of Police will direct the Watch Commander to notify the assigned Incident Commander and/or initiate a request for third party investigation (e.g. OCDA, CHP, or other law enforcement agency) if such investigation is deemed appropriate.

Incident Commander: The Incident Commander and the Watch Commander shall coordinate the initial call-out of any investigative personnel. The Incident Commander may assign additional personnel as appropriate and should organize the investigation using the Incident Command System. NBPD investigators will be responsible for the criminal investigation and prosecution of any involved persons other than police personnel. The Incident Commander shall be responsible for any related criminal investigation.

Professional Standards Unit Lieutenant: If necessary, the PSU Lieutenant and Watch Commander will coordinate a call-out of the Administrative Investigation Team. The PSU Lieutenant will supervise the Administrative Investigation Team and be responsible for the administrative investigation. The PSU Lieutenant will also act as the primary liaison to the law enforcement agency with jurisdiction and any third party investigating agency.

358.4.2 DETECTIVE NOTIFICATION

If the incident requires that a detective respond from home, the immediate supervisor of the appropriate detail shall be contacted who will then contact the appropriate detective.

358.4.3 TRAFFIC BUREAU NOTIFICATION

In the event of a traffic fatality or major injury, the Traffic Sergeant shall be notified who will then contact the appropriate accident investigator. The Traffic Sergeant will notify the Traffic Lieutenant and the Patrol/Traffic Division Commander.

358.4.4 PRESS INFORMATION OFFICER (PIO)

The Press Information Officer shall be called after members of staff have been notified that it appears the media may have a significant interest in the incident.

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After Action Report

359.1 PURPOSE AND SCOPE

To define what constitutes a Major Unusual Occurrence; define an After Action Report (AAR); and explain when and how an AAR should be completed

359.2 MAJOR UNUSUAL OCCURRENCE

A Major Unusual Occurrence is described as an event that threatens the public safety in such a manner as to occupy a large portion of Department resources in order to establish control of the incident, or any significant event where documentation of such event would be prudent. Major Unusual Occurrences may originate from a pre-planned event (i.e. July 4th Operation), or an unplanned event (i.e. natural disaster, SWAT call-out, plane crash, etc.).

359.3 AFTER ACTION REPORT - CONTENT

An After Action Report (NBPD Form 1.70) shall be a summary of the Department's response to a Major Unusual Occurrence or significant event as described in Policy Manual § 359.2. The expectation is that this report will provide a substantive and objective analysis of the Department's response to a Major Unusual Occurrence in order to quantify our effectiveness and ensure organizational growth.

An After Action Report shall be completed after each Major Unusual Occurrence and should contain the following standard 10 paragraphs:

1. SUMMARY OF EVENT (Type of occurrence with brief summary of event)

2. LOCATION(S) INVOLVED (Location(s) of incident and perimeters established)

3. DURATION OF EVENT (Time event started and concluded)

4. COMMAND POST (Location, staffing, time it was set up, Incident Commander, PIO, etc.)

5. PERSONNEL AND RESOURCES (Personnel and resources utilized including duration - include outside agencies)

6. FINANCIAL DATA (Financial costs including a detailed account, by Division, of all overtime and straight time expended)

7. ARRESTS (A listing of all arrests)

8. PROPERTY DAMAGE AND INJURED PARTIES (A listing of property damage and injured parties)

9. ANALYSIS AND RECOMMENDATIONS (Provide an objective assessment of the strengths and weaknesses of the pre-plan and/or response. This critique should summarize the effectiveness of the personnel, resources, and tactics utilized. This portion of the report should identify where and how we can improve our performance for future pre-plans and responses)

10. MISCELLANEOUS (Additional miscellaneous information pertinent to the event)

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359.4 AFTER ACTION REPORT - REPORTING REQUIREMENTS

The After Action Report shall be completed by the Incident Commander or his/her designee within two weeks of the event's conclusion. The report will be forwarded for approval to the Deputy Chief / Deputy Director whose Division was most responsible for the event's pre-planning and/or response and then forwarded to the Chief of Police. Upon completion, the report should be stored electronically by incident title for access by all Police Supervisors. This may prove beneficial for future Incident Commanders to review should they find themselves placed in command of a similar situation.

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Death Investigation

360.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers initially respond to and investigate the circumstances of a deceased person.

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 and use of appropriate resources and evidence gathering techniques is critical.

360.2 INVESTIGATION CONSIDERATIONS

Emergency medical services shall be called in all suspected death cases unless the death is obvious (e.g., decapitated, decomposed).

A supervisor shall be notified as soon as possible to assist and provide appropriate personnel and resources. The on-scene supervisor should determine whether follow-up investigation is required and notify the Detective Division Commander as necessary. The Watch Commander will make notification to command staff in accordance with the Major Incident Notification Policy.

360.2.1 CORONER REQUEST

Government Code § 27491 and Health and Safety Code § 102850 direct the Coroner to inquire into and determine the circumstances, manner, and cause of certain deaths. The Coroner shall be called in any of the following cases:

(a) Unattended deaths (No physician in attendance or during the continued absence of the attending physician. This also includes all deaths outside hospitals and nursing care facilities.)

(b) Deaths where the deceased has not been attended by either a physician or a registered nurse who is a member of a hospice care interdisciplinary team, as defined by Health and Safety Code § 1746, in the 20 days prior to death

(c) Deaths where the physician is unable to state the cause of death. Unwillingness does not apply. This includes all sudden, unexpected, and unusual deaths, and fetal deaths when the underlying cause is unknown.

(d) Known or suspected homicide

(e) Known or suspected suicide (including suicide where the deceased has a history of being victimized by domestic violence)

(f) Deaths involving any criminal action or suspicion of a criminal act. This includes child and dependent adult negligence and abuse.

(g) Deaths related to or following known or suspected self-induced or criminal abortion

(h) Deaths associated with a known or alleged rape or crime against nature

(i) Deaths following an accident or injury (primary or contributory). This includes deaths known or suspected as resulting (in whole or in part) from or related to accident or injury, either old or recent.

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(j) Deaths from drowning, fire, hanging, gunshot, stabbing, cutting, starvation, exposure, alcoholism, drug addiction, strangulation, or aspiration

(k) Deaths from accidental poisoning (e.g., food, chemical, drug, therapeutic agents)

(l) Deaths from occupational diseases or occupational hazards

(m) Deaths from known or suspected contagious disease and constituting a public hazard

(n) All deaths in operating rooms and all deaths where a patient has not fully recovered from an anesthetic, whether in surgery, recovery room, or elsewhere

(o) Deaths that occur in prison or while under sentence. This includes all in-custody and police-involved deaths.

(p) All deaths of unidentified persons

(q) All deaths of state hospital patients

(r) Suspected Sudden Infant Death Syndrome (SIDS) deaths

(s) All deaths where the patient is comatose throughout the period of the physician's attendance. This includes patients that are admitted to hospitals unresponsive and expire without regaining consciousness.

The body shall not be disturbed or moved from the position or place of death without permission of the Coroner.

360.2.2 SEARCHING DEAD BODIES

(a) The Coroner or a designee is generally the only person permitted to search a body known to be dead from any of the circumstances set forth in Government Code § 27491. The only exception is that an officer is permitted to search the body of a person killed in a traffic collision for the limited purpose of locating an anatomical donor card. If such a donor card is located, the Coroner or a designee shall be promptly notified (Government Code § 27491.3).

(b) The Coroner, with the permission of the Department, may take property, objects, or articles found on the deceased or in the immediate vicinity of the deceased that may be necessary for conducting an investigation to determine the identity of the deceased or the cause or manner of death (Government Code § 27491.3).

(c) Should exigent circumstances indicate to an officer that any other search of a known dead body is warranted prior to the arrival of the Coroner or a designee, the investigating officer should first obtain verbal consent from the Coroner or a designee (Government Code § 27491.2).

(d) Whenever reasonably possible, a witness, preferably a relative to the deceased or a member of the household, should be requested to remain nearby the scene and available to the officer pending the arrival of the Coroner or a designee. The name and address of this person shall be included in the narrative of the death report.

(e) Whenever personal effects are removed from the body of the deceased by the Coroner or a designee, a receipt shall be obtained. This receipt shall be attached to the death report.

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360.2.3 REPORTING
All incidents involving a death shall be documented on the appropriate form.

360.2.4 SUSPECTED HOMICIDE
If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the officer shall take steps to protect the scene. The Detective Division shall be notified to determine the possible need for an investigator to respond to the scene.

If the on-scene supervisor, through consultation with the Watch Commander or Detective Division supervisor, is unable to determine the manner of death, the investigation shall proceed as though it is a homicide.

The investigator assigned to investigate a homicide or death that occurred under suspicious circumstances may, with the approval of their supervisor, request the Coroner to conduct physical examinations and tests, and to provide a report.

360.2.5 DEATHS OF VICTIMS WITH AN IDENTIFIABLE HISTORY OF VICTIMIZED DOMESTIC VIOLENCE
Prior to making any findings as to the manner and cause of death of a deceased individual with an identifiable history of being victimized by domestic violence, investigating officers should consider factors identified in Penal Code § 679.07 (e.g., premature or untimely death, partner wanting to end relationship, scene gives appearance of death due to suicide or accident) and proceed with the investigation according to the code's requirements.

360.2.6 EMPLOYMENT-RELATED DEATHS OR INJURIES
Any member of this agency who responds to a death, serious illness, or serious injury and determines that it has occurred as a result of an accident at or in connection with the victim's employment shall ensure that the nearest office of Cal-OSHA is notified by telephone immediately or as soon as practicable with all pertinent information (8 CCR 342(b)).

360.2.7 AMUSEMENT RIDE DEATH OR INJURY NOTIFICATION (CAL/OSHA)
Any member of this agency who responds to and determines that a death or serious injury has occurred as a result of an accident at or in connection with a permanent amusement ride shall ensure that the nearest office of Cal-OSHA is notified by telephone or teletype with all pertinent information (8 CCR 344.15).

360.3 POLICY
It is the policy of the Newport Beach Police Department to respond to, document, and investigate incidents where a person is deceased. Investigations involving the death of a person, including deaths from natural causes, accidents, workplace incidents, suicide, and homicide, shall be initiated, conducted, and properly documented.

360.4 UNIDENTIFIED DEAD BODY
If the identity of a dead body cannot be established, the handling officer will request from the Coroner a unique identifying number for the body. The number shall be included in any report.

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360.5 DEATH NOTIFICATION

When reasonably practicable, and if not handled by the Coroner's Office, notification to the next-of-kin of the deceased person shall be made, in person, by the officer assigned to the incident. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification.

If a deceased person has been identified as a missing person, this department shall attempt to locate family members and inform them of the death and location of the deceased missing person's remains. All efforts to locate and notify family members shall be recorded in appropriate reports.

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Identity Theft

362.1 PURPOSE AND SCOPE

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

362.1.1 DEFINITION

An identity theft occurs when a person has learned or reasonably suspects that his or her personal identifying information has been used by another for any unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, real property, or medical information without the consent of the victim.

A "person" means a natural person, living or deceased, firm, association, organization, partnership, business trust, company, corporation, limited liability company, or public entity, or any other legal entity.

"Personal identifying information" means any name, address, telephone number, health insurance number, taxpayer identification number, school identification number, state or federal driver's license, or identification number, social security number, place of employment, employee identification number, professional or occupational number, mother's maiden name, demand deposit account number, savings account number, checking account number, PIN (personal identification number) or password, alien registration number, government passport number, date of birth, unique biometric data including fingerprint, facial scan identifiers, voiceprint, retina or iris image, or other unique physical representation, unique electronic data including information identification number assigned to the person, address or routing code, telecommunication identifying information or access device, information contained in a birth or death certificate, or credit card number of an individual person, or an equivalent form of identification.

362.2 REPORTING

Penal Code § 530.6 specifies that a person, who has learned or reasonably suspects he or she has been the victim of an identity theft crime as described above, may initiate a law enforcement investigation by contacting the local law enforcement agency that has jurisdiction over his/her actual residence or place of business, when the crime occurred, which shall take a police report of the matter, provide the complainant with a copy of that report, and begin an investigation of the facts. For incidents of identity theft occurring outside this jurisdiction, officers should observe the following:

- For any victim not residing, or working, within this jurisdiction, the officer may either take a courtesy report to be forwarded to the victim's residence agency or the victim should be encouraged to promptly report the identity theft to the law enforcement agency where he/she resides.

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362.3 FRONT DESK OFFICER AND PATROL OFFICER RESPONSIBILITIES

A crime report shall be completed, utilizing the Identity Theft Report form (NBPD Form 5.5.2), under the following circumstances:

- The person reporting the crime has learned or reasonably suspects that he or she is the victim of an identity theft crime as described above, and;
- The reporting person resides or has a place of business in the City of Newport Beach, or;
- The reported crime occurred in the City of Newport Beach.

If the identity theft crime is associated with another greater offense, such as burglary, the identity theft offense shall be incorporated within that report on the appropriate crime report format (i.e. Preliminary Investigation Report form 3.1).

The investigating officer shall provide the reporting person with a copy of the crime report. The yellow NCR copy of the Identity Theft Report form can be utilized for this purpose.

Should the investigating officer determine that the suspected crime was committed in a different law enforcement jurisdiction, the report shall be processed as a "Courtesy Report" in a manner described in Section 362.5.

362.4 ASSIGNED DETECTIVE'S RESPONSIBILITIES

Should the assigned Detective determine that the suspected crime was committed in a different law enforcement jurisdiction, the report shall be processed as a "Courtesy Report" in a manner described in Section 362.5. The assigned Detective shall complete a Follow-up Report with a disposition of "Unfounded" and shall notify the victim that the case has been forwarded to a different law enforcement agency.

362.5 RECORDS SECTION RESPONSIBILITIES

When it has been determined that the suspected crime was committed in a different law enforcement agency's jurisdiction, it will be the responsibility of the Logging Desk in the Records Section to fax or mail a copy of the Identity Theft Report to the appropriate law enforcement agency. The report shall then be coded and filed in the Records Section.

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Private Persons Arrests

364.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Penal Code § 837.

364.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

Penal Code § 836(b) expressly mandates that all officers shall advise victims of domestic violence of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all other situations, officers should use sound discretion in determining whether or not to advise an individual of the arrest process.

(a) When advising any individual regarding the right to make a private person's arrest, officers should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest as listed below.

(b) Private individuals should be discouraged from using force to effect a private person's arrest, and absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.

364.3 ARRESTS BY PRIVATE PERSONS

Penal Code § 837 provides that a private person may arrest another:

(a) For a public offense committed or attempted in his or her presence;

(b) When the person arrested has committed a felony, although not in his or her presence;

(c) When a felony has been in fact committed, and he or she has reasonable cause for believing the person arrested has committed it.

Unlike peace officers, private persons may not make an arrest on suspicion that a felony has been committed - the felony must in fact have taken place.

364.4 OFFICER RESPONSIBILITIES

Any officer presented with a private person wishing to make an arrest must determine whether or not there is reasonable cause to believe that such an arrest would be lawful (Penal Code § 847).

(a) Should any officer determine that there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.

1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to Penal Code § 849(b)(1). The officer must include the basis of such a determination in a related report.

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2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.

(b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:

1. Take the individual into physical custody for booking
2. Release the individual pursuant to a Notice to Appear
3. Release the individual pursuant to Penal Code § 849

364.5 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a department Private Person's Arrest form under penalty of perjury.

In addition to the Private Person's Arrest Form (and any other related documents such as citations, booking forms, etc.), officers shall complete a narrative report regarding the circumstances and disposition of the incident.

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Limited English Proficiency Services

368.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

368.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized interpreter - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

Interpret or interpretation - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

Limited English proficient (LEP) - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

Qualified bilingual member - A member of the Newport Beach Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

Translate or translation - The replacement of written text from one language (source language) into an equivalent written text (target language).

368.2 POLICY

It is the policy of the Newport Beach Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

368.3 LEP COORDINATOR

The Chief of Police shall delegate certain responsibilities to an LEP Coordinator. The LEP Coordinator shall be appointed by, and directly responsible to, the Patrol Division Commander or the authorized designee.

The responsibilities of the LEP Coordinator include, but are not limited to:

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(a) Coordinating and implementing all aspects of the Newport Beach Police Department's LEP services to LEP individuals.

(b) Developing procedures that will enable members to access LEP services, including telephonic interpreters, and ensuring the procedures are available to all members.

(c) Ensuring that a list of all qualified bilingual members and authorized interpreters is maintained and available to each Watch Commander and Communications Manager. The list should include information regarding the following:

1. Languages spoken
2. Contact information
3. Availability

(d) Reviewing existing and newly developed documents to determine which are vital documents and should be translated, and into which languages the documents should be translated.

(e) Annually assessing demographic data and other resources, including contracted language services utilization data and community-based organizations, to determine if there are additional documents or languages that are appropriate for translation.

(f) Identifying standards and assessments to be used by the Department to qualify individuals as qualified bilingual members or authorized interpreters.

(g) Periodically reviewing efforts of the Department in providing meaningful access to LEP individuals, and, as appropriate, developing reports, new procedures or recommending modifications to this policy.

(h) Receiving and responding to complaints regarding department LEP services.

(i) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

368.4 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

(a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.

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(b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.

(c) The nature and importance of the contact, program, information or service provided.

(d) The cost of providing LEP assistance and the resources available.

368.5 TYPES OF LEP ASSISTANCE AVAILABLE

Newport Beach Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

368.6 WRITTEN FORMS AND GUIDELINES

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP Coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

368.7 AUDIO RECORDINGS

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

368.8 QUALIFIED BILINGUAL MEMBERS

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

When a qualified bilingual member from this department is not available, personnel from other City departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

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368.9 AUTHORIZED INTERPRETERS

Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the LEP Coordinator which demonstrates that their skills and abilities include:

(a) The competence and ability to communicate information accurately in both English and in the target language.

(b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this department and of any particularized vocabulary or phraseology used by the LEP individual.

(c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

(d) Knowledge of the ethical issues involved when acting as a language conduit.

368.9.1 SOURCES OF AUTHORIZED INTERPRETERS

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this department or personnel from other City departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

368.9.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

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Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

368.10 CONTACT AND REPORTING

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

368.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The Newport Beach Police Department will take reasonable steps and will work with the Personnel Department to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

368.11.1 EMERGENCY CALLS TO 9-1-1

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in Dispatch, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

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While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

368.12 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

368.13 INVESTIGATIVE FIELD INTERVIEWS

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

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368.14 CUSTODIAL INTERROGATIONS

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

368.15 BOOKINGS

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

368.16 COMPLAINTS

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the LEP Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

368.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

368.18 TRAINING

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

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The Training Manager shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Training Manager shall maintain records of all LEP training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

368.18.1 TRAINING FOR AUTHORIZED INTERPRETERS

All members on the authorized interpreter list must successfully complete prescribed interpreter training. To complete interpreter training successfully, an interpreter must demonstrate proficiency in and ability to communicate information accurately in both English and in the target language, demonstrate knowledge in both languages of any specialized terms or phraseology, and understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

Members on the authorized interpreter list must receive refresher training annually or they will be removed from the authorized interpreter list. This annual training should include language skills competency (including specialized terminology) and ethical considerations.

The Training Manager shall be responsible for coordinating the annual refresher training and will maintain a record of all training the interpreters have received.

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Mandatory School Employee Reporting

372.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the requirements and procedures to follow when a public or private school employee (teacher and non-teacher) has been arrested under certain circumstances.

372.2 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING

In the event a school employee is arrested for any offense enumerated below, the Chief of Police or his/her designee is required to report the arrest as follows.

372.2.1 ARREST OF PUBLIC SCHOOL TEACHER

In the event a public school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a), or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the teacher and to immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the superintendent of schools in the county where the person is employed (Health and Safety Code § 11591; Penal Code § 291).

372.2.2 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE

In the event a public school non-teacher employee is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a), or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the non-teacher and to immediately give written notice of the arrest to the governing board of the school district employing the person (Health and Safety Code § 11591; Penal Code § 291).

372.2.3 ARREST OF PRIVATE SCHOOL TEACHER

In the event a private school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290 or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher and to immediately give written notice of the arrest to the private school authority employing the teacher (Health and Safety Code § 11591; Penal Code § 291.1).

372.2.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR

In the event a teacher or instructor employed in a community college district school is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591.5 or Health

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and Safety § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(9), or for any of the offenses enumerated in Penal Code § 290 or in Penal Code § 261(a)(1), the Chief of Police or the authorized designee is mandated to immediately notify by telephone the superintendent of the community college district employing the person, and shall immediately give written notice of the arrest to the California Community Colleges Chancellor's Office (Health and Safety Code § 11591.5; Penal Code § 291.5).

372.3 POLICY

The Newport Beach Police Department will meet the reporting requirements of California law to minimize the risks to children and others.

372.4 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES

In the event an employee of a community treatment facility, a day treatment facility, a group home, a short-term residential therapeutic program or a foster family agency is arrested for child abuse (as defined in Penal Code § 11165.6) and the employee is free to return to work where children are present, the investigating member shall notify the licensee of the charge of abuse (Health and Safety Code § 1522.2).

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Biological Samples

374.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction or arrest for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples from those required to register, for example, sex offenders.

374.2 POLICY

The Newport Beach Police Department will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

374.3 PERSONS SUBJECT TO DNA COLLECTION

Those who must submit a biological sample include (Penal Code § 296):

(a) A person, including a juvenile, upon conviction or other adjudication of any felony offense.

(b) A person, including a juvenile, upon conviction or other adjudication of any offense if the person has a prior felony on record.

(c) An adult arrested or charged with any felony.

374.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

374.4.1 COLLECTION

The following steps should be taken to collect a sample:

(a) Verify that the individual is required to provide a sample pursuant to Penal Code § 296; Penal Code § 296.1.

(b) Verify that a biological sample has not been previously collected from the offender by querying the individual's criminal history record for a DNA collection flag or, during regular business hours, calling the California Department of Justice (DOJ) designated DNA laboratory. There is no need to obtain a biological sample if one has been previously obtained.

(c) Use a DNA buccal swab collection kit provided by the California DOJ to perform the collection and take steps to avoid cross contamination.

374.5 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order and only

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with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

(a) The person's parole or probation officer when applicable.

(b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.

(c) The judge at the person's next court appearance.

(d) The person's attorney.

(e) A chaplain.

(f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.

(g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

374.5.1 VIDEO RECORDING

A video recording should be made anytime force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department’s records retention schedule (15 CCR 1059).

374.5.2 CELL EXTRACTIONS

If the use of force includes a cell extraction, the extraction shall be video recorded, including audio. Video shall be directed at the cell extraction event. The video recording shall be retained by the Department for the length of time required by statute. Notwithstanding the use of the video as evidence in a criminal proceeding, the tape shall be retained administratively (15 CCR 1059).

374.6 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

374.6.1 DOCUMENTATION RELATED TO FORCE

The Watch Commander or the on-duty authorized designee shall prepare prior written authorization for the use of any force (15 CCR 1059). The written authorization shall include information that the subject was asked to provide the requisite specimen, sample, or impression and refused, as well as the related court order authorizing the force.

374.6.2 BLOOD SAMPLES

A blood sample should only be obtained under this policy when:

(a) The California DOJ requests a blood sample and the subject consents, or

(b) A court orders a blood sample following a refusal.

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The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. A California DOJ collection kit shall be used for this purpose (Penal Code § 298(a); Penal Code § 298(b)(2)).

374.6.3 LITIGATION

The Chief of Police or authorized designee should notify the California DOJ's DNA Legal Unit in the event this department is named in a lawsuit involving the DNA Data Bank sample collection, sample use or any aspect of the state's DNA Data Bank Program.

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Ceremonial Detail

375.1 PURPOSE AND SCOPE

The Ceremonial Detail may represent the Newport Beach Police Department on formal occasions and at special events such as public gatherings, official meetings, academy graduations, parades, funerals, memorial ceremonies, and at the direction of the Chief of Police.

The Ceremonial Detail shall be trained and equipped to perform both Color Guard and Honor Guard details

375.1.1 CHAIN OF COMMAND

The Ceremonial Detail shall be coordinated by the Executive Officer, who functions as the Team Coordinator. The Team Coordinator shall approve participation in any ceremony or event. The Detail shall consist of sworn personnel as selected by the Chief of Police.

General supervision of training, distribution of ceremonial equipment and coordination of assignments will be the responsibility of the Team Leader. The Team Leader should be a Sergeant.

A Detail Leader will be designated for each Color Guard or Honor Guard assignment. The Detail Leader will be responsible for the appearance and conduct of each member selected for the assignment. They will ensure proper equipment and transportation is available for the successful completion of the assignment. They will also coordinate the Color Guard or Honor Guard's participation at any approved ceremony or event. All other members selected for the assignment will support and defer to the Detail Leader. The Detail Leader can be a sergeant or officer.

375.1.2 SELECTION PROCEDURE

When a vacancy occurs on the Ceremonial Detail, the Team Coordinator will disseminate information to department personnel of the pending position. Interested sworn personnel will submit an Employee's Report (NBPD Form 15.7) describing their interest and qualifications for the position to the Team Coordinator. The Chief of Police will approve final selection.

375.1.3 CEREMONIAL UNIFORM EQUIPMENT

The Newport Beach Police Department will provide officers on the Ceremonial Detail with the following uniform items:

- Dark Blue Campaign Hat
- Dark Blue Chocker Collar Dress Jacket and Dress Pants
- Grey Shoulder Braids
- White gloves
- Honor Guard Badge and Name Tag
- Corfam Shoes

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- Corfam Sam Browne with Chest Strap, Holster, and Magazine Pouch

Under no circumstances shall long guns used for the purpose of ceremony be loaded with live ammunition. No live ammunition shall be carried in the long gun magazines.

375.1.4 TRAINING

Officers assigned to the Ceremonial Detail will attend training sessions on a quarterly basis or as determined by the Team Leader and approved by the Coordinator.

375.1.5 DISMISSAL / WITHDRAWAL

Officers may be dismissed from the Ceremonial Detail upon approval of the Executive Officer / Team Coordinator.

An officer may withdraw from the Ceremonial Detail by submitting an Employee's Report (NBPD Form 15.7) to the Team Coordinator indicating his/her intentions.

In the event of a dismissal or withdrawal from the Ceremonial Detail, the officer shall return all issued ceremonial equipment to the Team Coordinator.

375.1.6 HONOR GUARD / COLOR GUARD PROTOCOL

DEFINITION

Color Guard Details are defined as those in which the federal and/or state flag(s) are presented in a formal setting. Honor Guard Details are defined as all other formal representations that do not directly involve a presentation of the federal and/or state flag(s)

FUNERAL PROTOCOL FOR THE DEATH OF AN NBPD OFFICER

In the event of a death of an NBPD officer, either current or retired status, the Ceremonial Detail will provide assistance as directed by the Executive Officer. For the purpose of a police officer funeral, it may be necessary to establish a Rifle Squad and Pallbearer Squad. As such, it may be necessary to recruit and designate the personnel for the function of these squads.

The Ceremonial Detail may be organized into three funeral squads (Rifle Squad, Pallbearer Squad, and Color Guard Squad) with a Squad Leader in charge of each element. It will be the responsibility of each squad member to coordinate their participation with their Squad Leaders.

UNIFORMS

The Color Guard uniform consists of a campaign hat, long sleeve shirt, white ascot, name plate, shoulder braid, white gloves, uniform trousers, black pants, belt, white gun belt with brass buckle (nothing attached to the white gun belt), black socks and black Corfam low-cut shoes.

The Honor Guard uniform consists of a campaign hat, long sleeve shirt, blue ascot, name plate, shoulder braid, uniform trousers, black leather basket weave gun belt with holstered sidearm, one handcuff case and one magazine holder (handcuff case and magazine holder on opposite side of holstered sidearm), black socks and black Corfam low-cut shoes.

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Ceremonial Detail

Based on event requirements and with the approval of the Coordinator, short sleeve uniform shirts may be used. The Rifle Squad and Pallbearer Squad shall wear the Honor Guard uniform. The Color Guard shall wear the Color Guard uniform.

It will be the responsibility of each member to properly prepare and respond to assignments with the appropriate uniform and equipment. It will be the responsibility of each squad leader to inspect the uniform and equipment of each squad member to ensure proper appearance and function.

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Chaplains

376.1 PURPOSE AND SCOPE

The Newport Beach Police Department has established a Police Chaplain Program for the purpose of providing assistance, care and guidance to all members of the department, both sworn and civilian, their families, and to the community, in time of need. A Newport Beach Police Chaplain is a resource available to all Newport Beach Police Department personnel, their families, and the community, on a voluntary basis. It is the purpose and policy of this department that no Police Department member, their family, or member of the community shall, by coercion, threat, promise or other means, be subjected to the teachings or tenets of any particular faith against his or her will.

376.2 POLICY

It is the policy of this department that the Chaplain Program shall be a non-denominational, ecumenical ministry provided by volunteer clergy without financial compensation.

376.3 DUTIES AND RESPONSIBILITIES

Newport Beach Police Department Chaplain's duties are defined in terms of service to the community and in the field, and service to Police Department personnel and their families.

(a) Service to the Community and the Department:

1. A Police Chaplain may represent the Police Department at department or community meetings, functions, programs, funerals, ceremonies, graduations or other events, and participate through invocation, benediction, presentation or other appropriate participation.
2. A Chaplain may also participate in a voluntary ride-along program. The ride-along program will give the community and department personnel the opportunity to avail themselves of the services of a Chaplain when requested. It will also allow a Chaplain to maintain a first-hand, ongoing understanding of the unique problems, pressures, and situations that confront the department's personnel.
3. Ride-Along Program:
   (a) A Police Chaplain may ride in an on-duty police vehicle, only with the voluntary consent of the officer and/or department personnel in the vehicle.
   (b) All Police Chaplains shall complete a Ride-Along Liability Waiver Form which shall remain valid during their tenure.
   (c) During the course of a ride-along or other field situation, a Chaplain may assist only when the handling officer requests the assistance of a Chaplain and shall obey all directions given to him/her by an officer in the course of his/her duty.

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(d) A Chaplain shall not intervene in any investigation, interview, arrest or any other performance of police duty, unless a Chaplain's participation is requested by department personnel.

(e) A Chaplain shall immediately terminate their assistance during a specific incident upon the request of the handling officer or an involved party.

4. A Police Chaplain is a resource person available to department personnel in field situations. Situations in which a Chaplain may be of assistance include, but are not limited to:

(a) Family or personal disputes

(b) Suicide attempts

(c) Domestic violence

(d) Circumstances involving serious injury or death

(e) Disaster, fire, earthquake, explosion, other catastrophic event, etc.

(f) Confused or emotionally upset subjects

(g) Personal, family or community crisis situations

5. Chaplain Corps members will be on a rotating "on-call" schedule, in order to be available for specific call-out requests. Call-out requests for a Chaplain shall be made by the Watch Commander or the communication center directly to a Chaplain supervisor.

(b) Service to Police Department Personnel and Their Families:

1. A Chaplain shall be available to the members of the Name of your jurisdiction: Police Department and their families for visitation, consultation, to provide counseling, and/or to meet other needs, as requested by the department member or their family.

2. A Chaplain may serve in functions consistent with the position when requested to do so, including but not limited to:

(a) Funeral or memorial services

(b) Department social functions

(c) Academy graduations

(d) Awards ceremonies

(e) Invocations and benedictions

Chaplains may not proselytize or attempt to recruit members of the Department of the public into a religious affiliation with on-duty unless the receiving person has solicited spiritual guidance or

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teaching. If there is any question as to the receiving person's intent, chaplains should verify that the person is desirous of spiritual counseling or guidance before engaging in such discussion.

Chaplains may not accept gartuities for any service or follow-up contact that was provided while functioning as a chaplain for the Name of your jurisdiction: Police Department.

376.4 REQUIREMENTS

Candidates for the Chaplain Program shall meet the following requirements:

(a) Must be above reproach, temperate, prudent, respectable, hospitable, able to teach, not be addicted to alcohol or other drugs, not contentious, and free from excessive debt. Must be tactful and considerate in his or her approach to all people regardless of race, sex, creed, social position or religious affiliation. Must manage their household, family, and personal affairs well. Must have a good reputation with those outside the church.

(b) Must be ecclesiastically certified and/or endorsed, ordained, licensed, or commissioned by a recognized religious body.

(c) Must submit a letter prepared by their ecclesiastical superior stating endorsement of the Chaplain candidate's involvement in the Police Chaplains program and the candidate's good standing within their religious body.

(d) Must successfully complete an appropriate level background investigation including the application, oral interview, background investigation and pre-appointment process.

(e) Must not have been convicted of a felony offense or an offense involving moral turpitude.

(f) Must have at least five years of successful ministry experience within a recognized church or religious denomination and should be serving as a full-time minister at the time of their appointment.

(g) Must be willing to attend scheduled meetings and training programs.

(h) Must be willing and able to handle the physical and mental demands of twenty-four hour, on call situations and the ride-along program.

(i) Must possess a high school diploma or G.E.D.

(j) Membership in good standing with the International Conference of Police Chaplains (ICPC).

(k) Possess a valid California Drivers License.

(l) Note: a member of the Police Chaplain Corps may continue to serve as a Chaplain upon their retirement, with the approval of the Chaplaincy Committee.

(m) For the purposes of this program, the following definitions (American Heritage Dictionary) are intended:

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1. **Ordain -** To invest with ministerial or priestly authority.
2. **Minister -** A person authorized to perform religious functions in a church.
3. **Ecclesiastical -** Of or pertaining to a church, especially as an organized institution.

376.5 SELECTION PROCESS

Chaplain candidates are encouraged to participate in the ride-along program before and during the selection process. Chaplain candidates shall successfully complete the following process prior to deployment as a chaplain:

(a) Appropriate written application.

(b) Recommendation from their church elders, board, or council.

(c) Interview with Chief of Police & Chaplain Supervisor

(d) Successfully complete an appropriate level background investigation.

(e) Complete an appropriate probationary period as designated by the Chief of Police.

376.6 CONFIDENTIALITY

Except as otherwise specified, matters of a personal nature that are discussed between chaplains and others shall remain private and confidential. Members of the clergy are not required to reveal penitential communications; however, clergy must report child, elder or dependent adult abuse discovered while acting in any of the following capacities:

(a) Marriage, family, or child counselor.

(b) Religious practitioner, who diagnoses, examines or treats children, elders, or dependent adults.

376.7 COMMAND STRUCTURE

(a) Under the general direction of the Chief of Police or his/her designee, chaplains shall report to the Chaplain Commander.

(b) The Chief of Police shall make all appointments to the Chaplain Program and will designate a Chaplain Commander.

376.8 OPERATIONAL GUIDELINES

(a) Chaplains shall be permitted to ride with officers during any shift and observe Newport Beach Police Department operations, provided the Watch Commander has been notified and approved of the activity.

(b) Chaplains shall not be evaluators of employees and shall not be required to report on an employee's performance or conduct.

(c) In responding to incidents, a chaplain shall never function as an officer.

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(d) When responding to in-progress calls for service, chaplains may be required to stand-by in a secure area until the situation has been deemed safe.

(e) Chaplains shall serve only within the jurisdiction of the Newport Beach Police Department unless otherwise authorized by the Chief of Police or his designee.

(f) A Chaplain shall not make any detrimental or adverse statements concerning police policies or procedures. A sense of loyalty shall be maintained.

(g) A Chaplain shall not discriminate against persons on the basis of race, creed, sex or national origin.

(h) Although a required number of volunteer hours is not mandated, a Chaplain is expected to volunteer enough time to fulfill the duties of counseling, call-outs, department functions, meetings and ride-alongs, on a rotational basis, with the other department Chaplains.

(i) A Chaplain shall not release any information to the news media, insurance agencies, attorneys or any other person or entity, as a result of contacts made or information learned as a Police Chaplain. Any issue concerning these types of contacts or requests for information may be directed to the on-duty Watch Commander.

(j) The Police Chaplain may be requested or directed to testify in court concerning a case they may have become involved in while participating as a Police Chaplain. The Chaplain shall cooperate fully with court personnel so as to maintain the good reputation of the Newport Beach Police Department. The Chaplain shall disclose all information requested of them, except that which is lawfully covered by the State of California "Confidentiality Law."

(k) A Chaplain shall notify a member of the Chaplaincy Committee of any subpoena received, including the date, time and location of the court appearance, and the general nature of the particular case.

(l) A Chaplain shall participate in in-service training classes and be willing to enter into training courses to enhance their effectiveness.

(m) A Chaplain shall assist in contacting the assisted person's personal clergyperson as soon as possible. Should a person request a representative/minister of a specific denomination other than a department chaplain, the on-scene chaplain will contact the appropriate clergy as requested.

(n) A Claplain shall make referrals in cases where specialized attention is needed, or in those cases that are beyond the chaplain's ability to assist.

(o) Chaplains may not accept gratuities offered for their services or follow-up contacts while functioning as a chaplain for the Newport Beach Police Department.

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376.8.1 UNIFORMS AND BADGES

A distinct uniform, badge and necessary safety equipment will be provided for the Chaplains. This uniform may be similar to that worn by the personnel of this department.

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Animal Control

377.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for animal control officers and Newport Beach Police Department personnel in dealing with animal control related calls for service and to set forth procedures regarding animal control services, the handling of injured animals, and the abatement of animal nuisances.

377.2 ANIMAL CONTROL OFFICER RESPONSIBILITY

The Animal Control Officer (ACO) shall be responsible for enforcing local, state and federal laws relating to animals, and for appropriately resolving or referring animal problems as outlined in this policy. The ACO shall be under the operational control of the Traffic Division. The Animal Control Officer's assigned working hours will be scheduled by the Animal Control Supervisor. During hours when the ACO is on duty, requests for animal control services shall be assigned by Dispatch or the Watch Commander.

Requests for assistance by the ACO shall be acknowledged and responded to promptly.

377.3 OFFICER RESPONSIBILITY

During hours when the Animal Control Officer is off duty, or if the ACO is otherwise unavailable, the following animal related calls for service will be handled by the appropriate on-duty officer.

Officers may be dispatched to animal related calls and should take appropriate actions to control the situation until the arrival of an ACO. Due to the hazards of handling animals without proper equipment, responding officers generally should not attempt to capture and pick up any animal, but should keep the animal under observation until the arrival of the ACO. The following are examples of when an officer may consider acting before the arrival of the ACO:

(a) When there is a threat to the public safety.

(b) When animal has bitten someone, officers should take measures to confine the animal and prevent further injury.

(c) When an animal is creating a traffic hazard.

(d) When the owner/handler has been arrested and there is no other alternative placement for the animal.

(e) When the animal is gravely injured.

377.4 ANIMAL CRUELTY COMPLAINTS

Officers or Animal Control Officers shall conduct a preliminary investigation on all reports of animal cruelty and forward the information to the Animal Control Supervisor for follow-up. Officers shall not hesitate to take any immediate actions deemed necessary. The assistance of an animal control officer may be requested to assist with the investigation when appropriate for the purpose of handling the disposition of any animal(s) associated with the case.

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377.5 STRAY DOMESTIC ANIMALS/INJURED DOMESTIC ANIMALS/ANIMAL SAFEKEEPING

If the animal has a license or can otherwise be identified, the owner should be contacted, if possible. If the owner is contacted, the animal should be released to the owner and a citation may be issued if appropriate. If an animal is taken into custody, it should be transported to the Animal Shelter. The following are procedures for impounding stray domestic animals, injured domestic animals and safekeeping of arrestees' or injured/ ill / deceased persons' animals:

NON-INJURED ANIMALS - The following procedure shall be utilized when personnel locate stray, domesticated, non-injured animals when an Animal Control Officer is not available.

(a) **DOGS (STRAY OR SAFEKEEPING):**

1. Respond to the Police Department and access the ACO storage area by using the building door code.
2. The ACO storage area is located in the Police Department front parking lot, to the right of the front desk stairs. Open the door and follow the posted instructions regarding where to house the dog.
3. Close the cage securely.
4. If the dog has a collar and/or leash, leave the collar on the dog and hang the leash on the hook on the cage.
5. Lock the door to the storage area.
6. Advise dispatch to hold the call for an Animal Control Officer.
7. Animal Control will complete all necessary reports.

(b) **CATS (SAFEKEEPING ONLY; UNINJURED STRAY CATS SHOULD NOT BE PICKED UP OUTSIDE ACO WORKING HOURS):**

1. Bring the cat to the station and place the cat in the carrier located on the top of the cabinets in the ACO office. If the carrier is occupied, access the ACO storage area (described above) and follow the posted instructions regarding overflow cat housing.
2. Advise dispatch to hold the call for an Animal Control Officer.
3. Animal Control will complete all necessary reports.

(c) **Animals brought to the station shall not be released after hours without prior approval of an Animal Control Supervisor. Animals shall routinely be released only after being transferred to the Animal Shelter to ensure ownership is confirmed, impoundment fees are collected, and rabies control requirements are followed.**

INJURED ANIMALS-

The following procedure should be utilized when personnel locate injured domestic animals, when an Animal Control Officer is unavailable.

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(a) Transport the animal to the Central Orange County Emergency Animal Clinic at 3720 Campus #D, Newport Beach.

(b) Advise Dispatch to hold the call for the next on-duty ACO.

(c) Animal Control Officer will pick up the animal from the Emergency Clinic and complete all necessary reports.

The following procedure should be utilized when personnel locate injured wild animals, when an Animal Control Officer is unavailable.

(a) If the animal does not appear to be gravely suffering and can be safely left in its current location, leave the animal at its current location and advise dispatch to hold the call for an Animal Control Officer. If the animal cannot safely be left in its current location, personnel should carefully evaluate if they can safely handle the animal without sustaining injury. If they can safely do so, personnel may transport the animal to the Police Department and secure it in the rear compartment of an animal control vehicle. Advise dispatch to hold the call for an Animal Control Officer.

(b) If the animal appears to be gravely suffering, personnel should carefully evaluate if they can safely handle the animal without sustaining injury. If they can safely do so, personnel may transport the animal to the Central Orange County Emergency Animal Clinic at 3720 Campus #D, Newport Beach and request that the on-duty veterinarian humanely euthanize the animal. It should be noted that the Emergency Clinic is not a licensed wildlife rehabilitation facility and can only assist with euthanizing, not treating, an injured wild animal.

(c) In cases where personnel cannot safely handle the animal, and it is either unsafe to leave at its current location or is gravely suffering, personnel may request that an Animal Control Officer be called in (see section 376.7).If an Animal Control Officer cannot be contacted or public safety needs dictate a faster resolution, personnel may consider firearms euthanasia (see section 376.10).

377.6 ANIMAL BITE REPORTS

Officers shall obtain as much information as possible for forwarding to the ACO for follow-up. Officers shall instruct the owner of a biting animal, if contacted, to keep the animal confined on the property until contacted by the ACO. If the animal is a stray, then every effort shall be made to capture and impound the animal immediately.

377.6.1 ACO RESPONSIBILITIES

(a) When a report is required: A Rabies Control Investigation Report (O.C. Form F272-12.2001.4) shall be completed when:

1. A person has been bitten or scratched by an animal of a species subject to rabies; and
2. The victim suffers a break in the skin; and
3. The incident occurred within the City limits, or

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4. At the request of an outside agency to facilitate the quarantine of a biting animal living within the city even if the incident occurred outside the city.
5. NOTE: An Injury Report (NBPD Form 3.9) is not required.
6. After obtaining the report information the employee should attempt to locate the animal.

(b) **QUARANTINE -** Is defined as the restricted isolation of a warm-blooded animal suspected of being diseased, designed to prevent infection of other animals and people. The length of the quarantine is determined by the location of the quarantine and the type of animal, as follows:

1. A Veterinary facility, where the animal is under the care of a veterinarian: Ten (10) days
2. Any other location for domestic dogs and cats: Ten (10) days
3. Any other warm-blooded animal: Fourteen (14) days

(c) Quarantine Procedures:

1. Owner unknown / animal not located:
   (a) When the owner is unknown and the animal is not located, the employee shall complete the following report: Rabies Control Investigation Report (O.C. Form F272-12.2001.4)
2. Owner unknown / animal located:
   (a) When the owner is unknown and the animal is located, the employee shall: Impound and quarantine the animal at the city animal shelter. Complete the following reports: (a) Animal Report [16.12] (b) Rabies Control Investigation Report (O.C. Form F272-12.2001.4).
3. Owner known / animal not located:
   (a) When the owner is known and the animal is not located, the employee shall: Advise the owner that the animal shall be quarantined. Complete the following report: (a) Rabies Control Investigation Report (O.C. Form F272-12.2001.4).
4. Owner known / animal located, employee shall:
   (a) Owner contacted:
      1. Release the animal to the owner and advise the owner that it shall be quarantined.
      2. Complete the following report: Rabies Control Investigation Report (O.C. Form F272-12.2001.4).

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3. Obtain the owner's signature on the Quarantine Notification portion of the Rabies Control Investigation Report.
4. Give the animal owner the fourth (blue) copy of the completed Rabies Control Investigation Report.

(b) Owner not contacted:

1. Impound and quarantine the animal at the city animal shelter.
2. Complete the Animal Report [16.12] (2) Rabies Control Investigation Report (O.C. Form F272-12.2001.4).
3. NOTE: The second (yellow) copy of the Rabies Control Investigation Report should be mailed to the Orange County Health Department on the same day a report is initiated, whether or not all of the animal or owner information has been obtained.

377.7 PUBLIC NUISANCE CALLS RELATING TO ANIMALS

Officers shall obtain and forward to the ACO as much information as possible regarding the nature of the complaint, complaining person, owner information (if possible), location of problem, etc. Officers will also document any actions taken, citation(s) issued, related report numbers, etc.

In the event responding officers cannot fulfill urgent requests for service because the animal is difficult or dangerous to handle, the ACO may be called to duty to handle. If the ACO is unavailable, the patrol supervisor may request the assistance of an animal control officer from an allied agency.

All requests to call in the ACO must be approved by a field supervisor or the Watch Commander.

377.8 DECEASED ANIMALS

Deceased animals on public property will be removed and properly disposed of by the ACO. Officers may remove deceased animals when the Animal Control Officer is not on duty. The deceased animals may be placed in the city yard dead animal freezer.

(a) For health and sanitary reasons, deceased animals may be placed in a sealed plastic bag prior to placing in the city yard freezer.

(b) Neither the ACO nor any officer will be required to climb onto or under any privately owned structure for the purpose of removing a deceased animal.

377.9 CITATIONS

It should be at the discretion of the handling officer or the Field Supervisor as to the need for, or advisability of, the issuance of a citation for a violation.

377.10 FIELD EUTHANASIA OF INJURED OR DANGEROUS ANIMALS

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377.10.1 PURPOSE

Police Officers or Animal Control Officers may use firearms, or euthanasia solution, to humanely kill animals in the field (field euthanasia) when the following conditions exist:

(a) When other established humane procedures are not practical or available, or when the animal presents an immediate and/or serious threat to public safety.

(b) When field personnel are assigned to work problem locations where it has been determined dangerous animals, such as coyotes, have posed a threat to public safety.

(c) Or, when the animal is suffering.

377.10.2 PROCEDURES

Before utilizing firearms to kill an animal, field personnel must balance the use of a firearm (and the inherent dangers associated with such use) against any threat to public safety presented by the dangerous animal, or the humane concerns necessitating the killing of an injured animal. Additionally, safety issues related to the location, proximity to people, property, and/or uninvolved animals, and the type of weapon utilized shall be evaluated prior to employment of firearms. In addition:

(a) If practical, obtain prior supervisory approval

(b) Ensure the carcass is appropriately disposed

(c) Complete an Employee's Report (NBPD Form 15.7) or a Newport Beach Police Department Animal Control Chemical Immobilization/Firearms Euthanasia Report (NBPD Form 16.9) documenting the incident and forward it to the concerned employee's supervisor and Division Commander. This report shall address the following issues:

1. Describe the threat to public safety presented by the dangerous animal or the humane concerns necessitating the field euthanasia
2. Describe why other options were considered impractical, ineffective or inappropriate
3. Describe the location and related safety concerns
4. Describe the weapon used and, if approval was obtained, the name of the supervisor providing approval for field euthanasia
5. Describe the disposition of the carcass.

(d) Animal Control Officers shall complete PC 832 Firearms Training prior to utilizing firearms to euthanize or chemically capture an animal. Animal Control Officers shall also complete Chemical Immobilization Training prior to chemically capturing an animal. Animal Control Officers are required to complete this training prior to release from their probationary period.

377.10.3 UTILIZING EUTHANASIA SOLUTION IN THE FIELD

Situations in which euthanasia solution may be utilized in the field include, but are not limited to, the following:

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(a) Severely injured and/or suffering animal or wildlife.

(b) Domestic animals, or other animals, that are stuck in engines, belts, mechanism, or similar, where removal would cause more suffering and/or death.

(c) As described in Section 376.10.1.

Procedures for utilizing euthanasia solution in the field:

(a) Complete an Incident/Investigation Report.

(b) Record amount of drug usage on Veterinary Controlled Drug Disposition Record.

(c) Ensure the carcass is appropriately disposed.

(d) Animal Control Officers shall complete Training to Euthanize in the Field prior to utilizing euthanasia solution in the field. Animal Control Officers are required to complete this training prior to release from their probationary period.

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Public Safety Video Surveillance System

378.1 PURPOSE AND SCOPE

This policy provides guidance for the placement and monitoring of department public safety video surveillance, as well as the storage and release of the captured images.

This policy only applies to overt, marked public safety video surveillance systems operated by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department.

378.2 POLICY

The Newport Beach Police Department operates a public safety video surveillance system to complement its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance public safety and security in public areas. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist City officials in providing services to the community.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

Employees shall only use public video surveillance systems subject to this policy and any recorded or downloaded images or recordings in a lawful manner, within the scope and course of their official duties and for official business purposes.

378.3 OPERATIONAL GUIDELINES

Only department-approved video surveillance equipment shall be utilized, which may include equipment owned and operated by the Department, by the City, other government agencies or third parties. Department personnelwho are authorized to monitor video surveillance equipment should only monitor public areas and public activities where no reasonable expectation of privacy exists. The Chief of Police or the authorized designee shall approve all proposed equipment, locations, and use of video surveillance technology and may consult with and be guided by legal counsel as necessary in making such determinations.

378.3.1 PLACEMENT AND MONITORING

Cameras used by the Department pursuant to this policy should be placed or located consistent with Section 378.3 - Operational Guidelines. As appropriate, the Chief of Police should confer with other affected City divisions and designated community groups when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation, or other obstructions, should also be evaluated when determining placement.

The cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high-value or high-threat areas. The public video surveillance system may be useful for the following purposes:

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(a) To prevent, deter, and identify criminal activity.

(b) To target identified areas of gang and narcotics complaints or activity.

(c) To respond to critical incidents.

(d) To assist in identifying, apprehending, and prosecuting offenders.

(e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.

(f) To augment resources in a cost-effective manner.

The Chief of Police may authorize video feeds from the public safety video surveillance system to be forwarded to a specified location for monitoring by other than police personnel, such as allied government agencies, road or traffic crews, or fire or emergency operations personnel.

Unauthorized recording, viewing, reproduction, dissemination, or retention is prohibited.

378.3.3 INTEGRATION WITH OTHER TECHNOLOGY

The Department may incorporate other technology into its public safety video surveillance system to enhance available information, such as gunshot detection, incident mapping, crime analysis, license plate recognition, facial recognition and other video-based analytical systems. Additionally, data or feeds from video systems used by other City departments, other law enforcement agencies or third parties may be incorporated into the Department's surveillance systems.

378.4 VIDEO SUPERVISION

Supervisors should monitor video surveillance access and usage to ensure members are within department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

378.4.1 PROHIBITED ACTIVITY

Video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Video surveillance equipment shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.

Video surveillance systems shall not be used to harass, intimidate, or discriminate against any individual or group.

Video surveillance systems shall not be used for traffic enforcement as defined in California Vehicle Code Section 21455.5 or any successor legislation thereto.

378.5 STORAGE AND RETENTION OF MEDIA

All recorded or downloaded media shall be stored in a secure area with access restricted to authorized persons. A recording needed as evidence shall be stored in accordance with established video or digital evidence procedures. All actions taken with respect to retention of media shall be appropriately documented.

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The type of video surveillance technology employed and the manner in which recordings are used and stored will affect retention periods. The recordings should be stored and retained in accordance with the established records retention schedule and for a minimum of one year. Destruction shall be in accordance with the Department's records destruction policies. If recordings are evidence in any claim filed or any pending litigation, they shall be preserved until pending litigation is resolved (Government Code § 34090.6).

Any recordings needed as evidence in a criminal or civil proceeding shall be stored in accordance with current video evidence procedures.

378.5.1 EVIDENTIARY INTEGRITY

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be 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, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

378.6 RELEASE OF VIDEO IMAGES

All recorded video images gathered by the public safety video surveillance equipment are for the official use of the Newport Beach Police Department.

Requests from the public or the media for recorded video images in the possession of the Department shall be processed in the same manner as requests for department public records.

Requests for recorded images from other law enforcement agencies shall be referred to the Executive Officer for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

378.7 TRAINING

All department members authorized to operate or access video surveillance systems pursuant to this policy shall receive appropriate training. Training should include guidance on the use of cameras, interaction with dispatch and patrol operations and a review regarding relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

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Unmanned Aerial System

379.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system

(UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS.

379.1.1 DEFINITIONS

Definitions related to this policy include:

Unmanned aerial system (UAS) - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

379.2 POLICY

UAS may be utilized to enhance the department's mission of protecting lives, property and community caretaking when done in accordance with this policy and when other means and resources are not available or are less effective. All use of UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

379.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent

circumstances, operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is an expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

379.4 PROGRAM COORDINATOR

The Chief of Police will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations, and best practices.

379.5 CHIEF PILOT

The Chief of Police will appoint a Chief Pilot, who will be responsible for the following:

- Coordinate with the FAA to apply for a Certificate of Waiver or Authorization (COA) to function as a public aircraft operator that can self-certify its drone pilots and drones and ensure that the COA is current, and/or as appropriate, coordinate with the FAA to operate pursuant to the small unmanned aircraft rules (sUAS) under Code of Federal Regulations, 14 CFR 107.1 et seq., coordinating compliance with Remote Pilot Certifications as appropriate for department operations, and apply for waivers pursuant to 14 CFR 107.200 et seq., to permit UAS operations under circumstances

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that are otherwise restricted such as near airports, at night, over public locations, over vehicle throughways, and other waivers as appropriate.

- Coordinate with the FAA to apply for a First Responder Tactical Beyond Visual Line of Sight (TBVLOS) waiver of Code of Federal Regulations, 14 CFR 91.113, to permit operation of UAS beyond visual line of sight.
- Ensure that all authorized operators and required observers have completed all required FAA and department-approved training in the operation, applicable laws, policies, and procedures regarding use of the UAS.
- Coordinate the completion of the FAA Emergency Operation Request Form in emergency situations, as applicable (e.g., natural disasters, search and rescue, emergency situations to safeguard human life).
- Develop protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Develop an operational protocol governing the deployment and operation of a UAS including but not limited to safety oversight, use of visual observers, establishment of lost link procedures, and secure communication with air traffic control facilities.
- Fully document all missions.
- Develop a UAS inspection, maintenance, and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or service life.
- 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.
- Ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitate law enforcement access to images and data captured by the UAS.
- Recommend program enhancements, particularly regarding safety and information security.
- Maintain familiarity with FAA regulatory standards, state laws and regulations, and local ordinances regarding the operations of a UAS.
- Conduct random audits of UAS recordings on a quarterly basis.

379.6 USE OF UAS

UAS may be used for targeted premises searches only when justified by the consent of the owners or occupants, pursuant to a search warrant, or when exigent circumstances are present (based on the totality of the circumstances, there is an imminent and immediate threat to public safety, harm to individuals, or destruction of material evidence).

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Only authorized operators who have completed the required training shall be permitted to operate the UAS.

Use of vision enhancement technology (e.g., thermal and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant or court order.

UAS operations should only be conducted consistent with FAA regulations.

379.7 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.
- The UAS shall not be weaponized.

379.8 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established records retention

schedule. UAS cameras shall not record images or other data unless it is determined by an officer that recording is necessary because the record may become part of a criminal investigation file, evidence, or for other department purposes.

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Child and Dependent Adult Safety

380.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse and Senior and Disability Victimization policies.

380.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Newport Beach Police Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

380.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

(a) Inquire about and confirm the location of any children or dependent adults.

(b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.

(c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

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380.3.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

(a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.

    1. Officers should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.

(b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.

    1. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.

(c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.

(d) Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.

(e) Notify the field supervisor or Watch Commander of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

380.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

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If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

380.3.3 REPORTING

(a) For all arrests where children are present or living in the household, the reporting member will document the following information:

1. Name
2. Sex
3. Age
4. Special needs (e.g., medical, mental health)
5. How, where and with whom or which agency the child was placed
6. Identities and contact information for other potential caregivers
7. Notifications made to other adults (e.g., schools, relatives)

(b) For all arrests where dependent adults are present or living in the household, the reporting member will document the following information:

1. Name
2. Sex
3. Age
4. Whether he/she reasonably appears able to care for him/herself
5. Disposition or placement information if he/she is unable to care for him/herself

380.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling officers, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

380.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car, or taken into formal protective custody.

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Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

380.5 TRAINING

The Training Manager is responsible to ensure that all personnel of this department who may be involved in arrests affecting children or dependent adults receive approved POST-approved training on effective safety measures when a parent, guardian or caregiver is arrested (Penal Code § 13517.7).

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Service Animals

382.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to ensure that the rights of individuals who use service animals to assist with disabilities are protected in accordance with Title II of the Americans with Disabilities Act (ADA).

382.1.1 DEFINITIONS

Definitions related to this policy include:

Service animal - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104; Civil Code § 54.1; Health and Safety Code § 113903).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size, and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

382.2 POLICY

It is the policy of the Newport Beach Police Department to provide equal access to services, programs, and activities of the Department to persons with service animals. Department members shall protect the rights of persons assisted by service animals in accordance with state and federal law. This protection extends to a person authorized to train a service dog (Civil Code § 54.2).

382.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the Newport Beach Police Department affords to all members of the public (28 CFR 35.136).

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness, or collar.

Service animals may be used in a number of ways to provide assistance, including:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors, or flipping switches for people who have limited use of their hands, arms, or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.

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- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities, or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

382.4 INQUIRIES REGARDING SERVICE ANIMALS

If it is apparent or if a member is aware that an animal is a service animal, the individual generally should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the member should ask the individual only the following questions (28 CFR 35.136(f)):

- Is the animal required because of a disability?
- What task or service has the service animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal and no further questions as to the animal's status should be asked. The individual should not be questioned about their disabilities nor should members ask any individual to provide any license, certification, or identification card for the service animal.

382.5 CONTACT WITH SERVICE ANIMALS

Service animals are not pets. Department members should not interfere with a service animal by talking to, petting, or otherwise initiating contact.

382.6 REMOVAL OF SERVICE ANIMALS

If a service animal is not housebroken, exhibits vicious behavior, poses a direct threat to the health of others, or unreasonably disrupts or interferes with normal business operations, a department supervisor may direct the handler to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the service animal (28 CFR 35.136 (b); 28 CFR 35.139).

Each incident must be considered individually, and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse access to services, programs, and activities to an individual with a disability. Members are expected to provide all services, programs, and activities that are reasonably available to an individual with a disability, with or without a service animal.

382.7 COMPLAINTS

When handling calls of a complaint regarding a service animal, members should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

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Service Animals

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice (DOJ).

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Off-Duty Law Enforcement Actions

386.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place an officer as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for officers of the Newport Beach Police Department with respect to taking law enforcement action while off-duty.

386.2 POLICY

Initiating law enforcement action while off-duty is generally discouraged. Officers should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

Officers are not expected to place themselves in unreasonable peril. However, any sworn member of this department who becomes aware of an incident or circumstance that he/she reasonably believes poses an imminent threat of serious bodily injury or death, or significant property damage may take reasonable action to minimize the threat.

When public safety or the prevention of major property damage requires immediate action, officers should first consider reporting and monitoring the activity and only take direct action as a last resort.

386.3 FIREARMS

Officers of this department may carry firearms while off-duty in accordance with federal regulations and department policy. All firearms and ammunition must meet guidelines as described in the department Firearms Policy. When carrying firearms while off-duty officers shall also carry their department-issued badge and identification.

Officers should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drugs or medications or any combination thereof that would tend to adversely affect the officer’s senses or judgment.

386.4 DECISION TO INTERVENE

There is no legal requirement for off-duty officers to take law enforcement action. However, should officers decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration the following:

(a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.

(b) The inability to communicate with responding units.

(c) The lack of equipment, such as handcuffs, OC or baton.

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(d) The lack of cover.

(e) The potential for increased risk to bystanders if the off-duty officer were to intervene.

(f) Unfamiliarity with the surroundings.

(g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

386.4.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty officer is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the officer should loudly and repeatedly identify him/herself as an Newport Beach Police Department officer until acknowledged. Official identification should also be displayed.

386.4.2 INCIDENTS OF PERSONAL INTEREST

Officers should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances officers should call the responsible agency to handle the matter.

386.4.3 CIVILIAN RESPONSIBILITIES

Civilian personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

386.4.4 OTHER CONSIDERATIONS

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgement by the non-uniformed officer in case he/she needs to maintain an undercover capability.

386.5 REPORTING

Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, shall notify the Watch Commander as soon as practicable. The Watch Commander shall determine whether a report should be filed by the employee.

Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

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Gun Violence Restraining Orders

389.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for petitioning and serving gun violence restraining orders and accounting for the firearms obtained pursuant to those orders (Penal Code § 18108 and Senate Bill 899).

389.1.1 DEFINITIONS

Definitions related to this policy include:

Gun violence restraining order - Civil restraining order prohibiting a named person from controlling, owning, purchasing, possessing, receiving, or otherwise having custody of any firearms, ammunition, certain firearm parts (any firearm receiver or frame, including any item that can be used or easily turned into a firearm receiver or frame) or body armor (Penal Code § 18100).

389.2 POLICY

It is the policy of the Newport Beach Police Department to petition for 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.

389.3 GUN VIOLENCE RESTRAINING ORDERS

An officer who reasonably believes a person is a present danger to self or another person by controlling, owning, purchasing, possessing, receiving, or otherwise having custody of a firearm may request permission from the officer's supervisor to petition the court for a gun violence restraining order.

Officers petitioning the court should use the forms established by the Judicial Council (Penal Code § 18105). The petition should describe the number, types, and locations of any firearms and ammunition that the officer believes to be possessed or controlled by the person (Penal Code § 18107). The petition should also describe why less-restrictive alternatives are ineffective or inadequate for the circumstances (Penal Code § 18125; Penal Code § 18150; Penal Code § 18175).

If it is not practical under the circumstances to submit a written petition, an officer may submit the petition electronically or orally request a temporary order (Penal Code § 18122; Penal Code § 18140).

389.3.1 ADDITIONAL CONSIDERATIONS

Officers should also consider requesting permission to petition the court for a gun violence restraining order (Penal Code § 18108):

(a) When responding to a residence that is associated with a firearm registration or record.

(b) When responding to any call or incident when a firearm is present or when one of the involved parties owns, possesses, or expresses an intent to acquire a firearm.

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(c) During a contact with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions, if that person owns or possesses a firearm.

Officers should consider obtaining a mental health evaluation if the encounter involves a situation where there is a reasonable cause to believe that the person poses an immediate and present danger of causing personal injury to themself or another person by having custody or control of a firearm or expresses intent to obtain a firearm (see the Mental Illness Commitments Policy) (Penal Code § 18108).

389.4 SERVICE OF GUN VIOLENCE RESTRAINING ORDERS

An officer serving any gun violence restraining order shall:

(a) Verbally ask the subject of the order if he/she has any firearms, firearm parts, ammunition, magazines, or body armor in his/her possession or under his/her custody or control (Penal Code § 18160).

(b) Request that any firearms, firearm parts, ammunition, magazines, or body armor be immediately surrendered and issue a receipt for the surrendered items (Penal Code § 18120).

(c) Take into temporary custody any firearm, firearm parts, ammunition, magazines, body armor, or other deadly weapon discovered in plain view or pursuant to consent or other lawful search (Penal Code § 18250).

(d) Inform the restrained person of any scheduled hearing regarding the order (Penal Code § 18160).

(e) Transmit the original proof of service form to the issuing court as soon as practicable but within one business day (Penal Code § 18115).

(f) As soon as practicable, but by the end of his/her shift, submit proof of service to the Records Manager for prompt entry into the California Restraining and Protective Order System (Penal Code § 18115).

The officer should also inform the restrained person that he/she is required, within 24 hours, to surrender to a law enforcement agency any other firearms and ammunition he/she owns or that are in his/her custody or control or sell them to a firearms dealer. This notification should be documented.

Law enforcement officials notified about firearms or ammunition shall take all actions necessary to obtain those and any other firearms or ammunition owned, possessed, or controlled by the restrained person and to address any violation of the order with respect to firearms or ammunition as appropriate and as soon as practical (Family Code § 6306 f).

All firearms and ammunition collected shall be handled and booked in accordance with the Property and Evidence Policy.

389.4.1 TEMPORARY EMERGENCY GUN VIOLENCE RESTRAINING ORDERS

An officer requesting a temporary emergency gun violence restraining order shall (Penal Code § 18140):

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(a) For oral requests, sign a declaration under penalty of perjury reciting the oral statements provided to the judicial officer and memorialize the order of the court on the form approved by the Judicial Council.

(b) Serve the order on the restrained person if the person can be reasonably located.

(c) Forward a copy of the order to the Records Manager for filing with the court and appropriate databases.

389.5 SEARCH WARRANTS

If a person who has been served with a gun violence restraining order refuses to surrender any firearm or ammunition, CA SB 899 allows a search warrant to be issued. If a search warrant is to be obtained, the preparation and service of the search warrant shall be done in accordance with the Warrant Service Policy. Additionally, (Penal Code § 1542.5):

(a) The officer serving the warrant shall take custody of any firearm or ammunition that is controlled, possessed or owned by the person who is the subject of the gun violence restraining order, including any discovered pursuant to the warrant, a consensual search or other lawful search.

(b) If the location being searched is jointly occupied and the firearm or ammunition is owned by a person other than the restrained person, the firearm or ammunition should not be seized if the following conditions are met:

1. The firearm or ammunition can be stored in a manner that does not allow the restrained person to have control or access.
2. There is no evidence that the owner unlawfully possesses the firearm or ammunition.

(c) If a locked gun safe belonging to someone other than the subject of a gun violence restraining order is discovered, the officer shall not search the contents of the safe unless the owner consents or there is a valid search warrant for the safe. Any search of the safe must be done in the owner's presence.

389.6 RECORDS MANAGER RESPONSIBILITIES

The Records Manager is responsible for ensuring:

(a) Proof of service of any gun violence restraining order served by an officer or received from the clerk of the court is entered in the computer database system for protective and restraining orders maintained by the Department of Justice within one business day of service if served by an officer, or within one business day of receipt of proof of service if served by a person other than a law enforcement officer (Penal Code § 18115).

(b) Temporary orders are entered into the California Restraining and Protective Order System (Penal Code § 18140).

(c) Copies of temporary orders are filed with the court as soon as practicable, but no later than three court days, after issuance (Penal Code § 18140).

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(d) Copies of receipts of surrendered firearms or ammunition issued by other agencies for gun violence restraining orders issued by the Department are properly maintained (Penal Code § 18120).

(e) Any relinquishment of firearm rights form received from the court is entered into the California Restraining and Protective Order System within one business day of receipt (Penal Code § 18115).

389.7 COURT-ORDERED FIREARMS AND AMMUNITION SURRENDERS

Authorized members shall accept firearms and ammunition from any individual who is the subject of a gun violence restraining order. The member receiving any firearm or ammunition shall:

(a) Record the individual's name, address and telephone number.

(b) Record the serial number of the firearm.

(c) Prepare an incident report and property report.

(d) Provide a property receipt to the individual who surrendered the firearms and ammunition.

(e) Package and submit the firearms and ammunition in accordance with the Property and Evidence Policy.

389.8 STORAGE AND RELEASE OF FIREARMS AND AMMUNITION

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be stored in accordance with the Property and Evidence Policy.

Firearms and ammunition shall be returned to the restrained person upon the expiration of the order in accordance with Penal Code § 18120 and the Property and Evidence Policy (Penal Code § 18108).

389.9 GUN VIOLENCE RESTRAINING ORDER COORDINATOR

The Chief of Police will appoint a gun violence restraining order coordinator. The responsibilities of the coordinator include:

(a) Developing and maintaining procedures for the filing of a petition for an order or a renewal of an order by department members, also including procedures for requesting and serving (Penal Code § 18108):

1. A temporary emergency gun violence restraining order.
2. An ex parte gun violence restraining order.
3. A gun violence restraining order issued after notice and hearing.
4. Renewal orders.

(b) Developing and maintaining factors to consider when assessing the need to seek an order, including (Penal Code § 18108; Penal Code § 18155):

1. Whether threats have been made, and if so, whether the threats are credible and specific.

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2. Whether the potential victim is within close proximity.
3. Whether the person has expressed suicidal tendencies.
4. Whether the person has access to firearms.
5. The criminal history of the person, in particular any history of criminal violence, including whether the person is currently on parole, probation, or monitored release.
6. The mental health history of the person, in particular whether the person has any history of mental illness or has ever been detained for being a danger to themselves or others.
7. Any upcoming holidays, anniversaries, or other dates of significance that may serve as a trigger for the person, such as the death of a family member.
8. Whether the person has any history of drug or alcohol abuse.

(c) Developing and maintaining procedures for the receipt and service of orders consistent with the requirements of Penal Code § 18115; Penal Code § 18120; Penal Code § 18135; Penal Code § 18140; and Penal Code § 18160. Procedures should include:

1. Evaluation of an order to determine appropriate service and necessary precautions (see the Warrant Service Policy and the Operations Planning and Deconfliction Policy).
2. Forwarding orders to the Records Manager for recording in appropriate databases and required notice to the court, as applicable.
3. Preparing or obtaining a search warrant prior to attempting service of an order, when appropriate (Penal Code § 18108).
4. Seizure procedures of firearms and ammunition at the time of issuance of a temporary emergency gun violence restraining order.
5. Verification procedures for the removal of firearms and ammunition from the subject of a gun violence restraining order (Penal Code § 18108).

(d) Coordinating with the Training Manager to provide officers who may be involved in petitioning for or serving orders with training on such orders. Training should include determining when a petition is appropriate, the process for seeking an order, and the service of such orders.

(e) Reviewing each petition and any associated court documents for an order prepared by members, for compliance with this policy, department procedures, and state law.

(f) Developing and maintaining procedures for members to accept voluntarily surrendered prohibited items at times other than when an order is being served by the Department.

1. Procedures should include preparing and providing a receipt identifying all prohibited items to the person surrendering the items.

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(g) Coordinating review of notices of court hearings and providing notice to the appropriate officer of the hearing date and the responsibility to appear and participate in the evidence presentation process (Penal Code § 18108).

(h) Coordinating with the Training Manager to ensure officers remain current with the following (Penal Code § 18108):

1. Types of evidence a court considers when determining whether grounds exist for the issuance of a gun violence restraining order as provided in Penal Code § 18155 (Grounds for gun violence restraining order; examination by court).
2. The different procedures and protections afforded by different types of firearm-prohibiting emergency protective orders that are available to law enforcement petitioners.

(i) Establishing standards and procedures for addressing violations of a gun violence restraining order (Penal Code § 18108).

(j) Establishing procedures for officers to provide information about mental health referral services during contact with persons exhibiting mental health issues (Penal Code § 18108).

389.10 RENEWAL OF GUN VIOLENCE RESTRAINING ORDERS

The Detective Division supervisor is responsible for the review of a gun violence restraining order (including temporary or ex parte orders) obtained by the Department to determine if renewal should be requested within the time prescribed by law (Penal Code § 18190).

389.11 POLICY AVAILABILITY

The Chief of Police or the authorized designee shall be responsible for making this policy available to the public upon request (Penal Code § 18108).

389.12 TRAINING

The Training Manager should ensure that members receive periodic training on the requirements of this policy (Penal Code § 18108).

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Generative Artificial Intelligence Use

390.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the responsible and ethical use of artificial intelligence (Al) by the Newport Beach Police Department.

390.1.1 DEFINITIONS

Definitions related to this policy include:

Artificial Intelligence (AI) - A collection of computer science methods that seek to create machines
that mimic human intelligen

Generative Artificial Intelligence (GenAI) - A type of Al that uses machine learning to generate text, images, graphics, presentations, language translation, statement transcription, audio, and video from user prompts or existing content.

Official Police Report - Any report, affidavit, probable cause statement, investigative narrative, supplemental report, arrest report, search warrant affidavit, or other document prepared for official law enforcement purposes.

390.2 POLICY

It is the policy of the Newport Beach Police Department to be in compliance with federal, state and local regulations, including Senate Bill 524 (SB 524).

390.3 RESPONSIBILITIES

All department members are responsible for understanding and adhering to these requirements. The Department reserves the right to audit devices for unauthorized Al tool usage and investigate any suspected misuse of Al. Violations of this policy may result in disciplinary action, up to and including termination.

390.4 CONFIDENTIAL INFORMATION

Without contractual safeguards, information entered into or obtained from Al systems shall not be considered private or confidential and may become publicly available. Therefore, employees shall adhere to the following:

(a) No entry of confidential, sensitive, or criminal justice information into any public, nondepartment approved Al platform.

(b) No uploading of criminal justice information (CJI), criminal history information (CHRI), personally identifiable information (PII), evidence photographs, camera footage, or any investigative materials.

Input of protected information shall only be authorized after the department has ensured appropriate contractual safeguards are in place to manage third-party use of department and law enforcement data.

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390.5 OFFICIAL POLICE REPORT WRITING REQUIREMENT

All official police reports must be written directly by the reporting officer, reflect the officer's independent recollection, investigation, and articulation. Reports must be capable of being defended in court as the officer's own analysis and statement.

390.6 PROHIBITED USES

Department members are strictly prohibited from using generative AI (GenAI) to:

(a) Draft or generate any portion of an official police report

(b) Re-write or "improve" narrative sections of reports

(c) Edit for grammatical or spelling errors

(d) Generate probable cause statements

(e) Draft search warrant affidavits

(f) Summarize video footage for inclusion in official reports (in-car, dash-mounted cameras, or body-worn camera audio or video)

(g) Generate witness statements or paraphrased testimony

(h) Analyze evidence for investigative conclusions

390.7 PERMITTED USES

Generative AI may be used only if approved in advance by the Chief of Police or designee, and solely for administrative tasks that do not include confidential information. All AI-generated content used for administrative purposes must be reviewed and edited by the employee prior to distribution.

The Newport Beach Police Department may formally review and approve an authorized AI system for future specific administrative or operational purposes. If implemented, compliance with SB 524 regulations will be adhered to.

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ADA Compliance

391.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for equal access to Newport Beach Police Department services, programs, and activities for persons with disabilities, in accordance with Title II of the Americans with Disabilities Act (ADA).

This policy also includes guidelines to provide effective communication with persons with disabilities. See the Service Animals Policy for guidance on protecting the rights of individuals who use service animals in accordance with the ADA.

391.1.1 DEFINITIONS

Definitions related to this policy include (28 CFR 35.104):

ADA coordinator - The member designated by the Chief of Police to coordinate the department's efforts to comply with the ADA (28 CFR 35.107).

Assistive devices, auxiliary aids, and services - Tools used by persons with disabilities to facilitate their participation in services, programs, and activities offered by the Newport Beach Police Department and to facilitate effective communication. They include but are not limited to the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; a qualified reader; or a qualified interpreter.

Disability - A physical or mental impairment that substantially limits a major life activity including hearing, seeing, or speaking, regardless of whether the person uses assistive devices, auxiliary aids, and services. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102; 28 CFR 35.108).

Facility - All aspects of department buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walkways, parking areas, and other real or personal property (28 CFR 35.108).

Modification - Any change, adjustment, alteration, adaptation, or accommodation that renders a department service, program, or activity suitable for use, enjoyment, or participation by a person with a disability. This may include alteration of existing buildings and facilities.

A modification includes any change or exception to a policy, practice, or procedure that allows a person with a disability to have equal access to services, programs, and activities. It also includes the provision or use of assistive devices, auxiliary aids, and services.

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, transliterators, sign language interpreters, and intermediary interpreters.

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391.2 POLICY

It is the policy of the Newport Beach Police Department that persons with disabilities, including victims, witnesses, suspects, and arrestees, have equal access to services, programs, and activities of the Department.

The Department will not discriminate against or deny any individual access to services, programs, or activities based upon the presence or suspected presence of disabilities.

391.3 ADA COORDINATOR RESPONSIBILITIES

The responsibilities of the ADA coordinator include but are not limited to (28 CFR 35.130):

(a) Collaborating with the City ADA coordinator regarding the Newport Beach Police Department's efforts to provide equal access to services, programs, and activities.

1. Maintaining department compliance with accessibility standards for department web content and mobile applications as required by 28 CFR 35 Subpart H (28 CFR 35.200).

(b) Collaborating with the City ADA coordinator to facilitate a process of periodic self-evaluation. The process should include:

1. Inspection of current department facilities to identify access issues.
2. Review of current department services, activities, and programs for access issues.
3. Assessment and update, if necessary, of current compliance measures.
4. Identification of recurring areas of complaint for which new methods of modification should be considered.
5. Review of the department's emergency programs, services, and activities as they apply to persons with disabilities.
6. Recommendation of a schedule to implement needed improvements.

(c) Acting as a liaison with local disability advocacy groups or other disability-focused groups regarding access to department services, programs, and activities.

(d) Developing procedures that will enable members to access assistive devices, auxiliary aids, and services, and making the procedures available as appropriate.

1. A list of qualified interpreter services with contact and availability information should be maintained and easily accessible to members.

(e) Developing procedures for the review and processing of requests for modifications that will help members provide persons with disabilities access to department services, programs, and activities, as appropriate.

(f) Establishing procedures for the booking process to assist members with managing commonly encountered disabilities such as sight or mobility impairments and intellectual or developmental disabilities.

(g) Providing notice to the public regarding the rights and protections afforded by the ADA. This may include posters, published notices, handbooks, manuals, and pamphlets

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describing department services, programs, and activities and the availability of assistive devices, auxiliary aids, and services, as well as modifications (28 CFR 35.106).

(h) Collaborating with other [city/county] departments during the planning process to provide that new construction and any alteration to an existing building or facility are undertaken in compliance with the ADA (28 CFR 35.151).

(i) Developing, implementing, and publishing appropriate procedures to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to services, programs, and activities. The complaint procedures should include an appeal process (28 CFR 35.107).

(j) Verifying that third parties providing department services, programs, or activities through contract, outsourcing, licensing, or other arrangement have established reasonable policies and procedures to prevent discrimination against and denial of access to persons with disabilities.

(k) Recommending amendments to this policy as needed.

391.4 REQUESTS

The goal of any modification should be to allow a person with a disability to participate in a service, program, or activity the same as a person who does not have a disability.

Upon receiving a request for a modification, members should make reasonable efforts to accommodate the request based on the preference of the person with the disability. Members should not ask about the nature and extent of a person's disability but should limit questions to elicit information necessary to determine the need for a modification and the appropriate type of modification.

If the requested modification or an alternative modification can reasonably be made at the time of the request, the member should make the modification. A member who is unable to accommodate a request or unsure about whether a request should be accommodated should contact a supervisor.

The supervisor should review and approve the request, if practicable and appropriate. Otherwise, the supervisor should document the requesting person's contact information and the modification being requested and forward the request to the ADA coordinator for processing as soon as reasonably practicable.

391.4.1 DENIAL OF A REQUEST

The following should be considered before denying a request for modification:

(a) Requests for modifications should be approved unless complying with the request would result in (28 CFR 35.150):

1. A substantial alteration of the service, program, or activity.
2. An undue financial or administrative burden on the Department. All resources available for use in the funding and operation of the service, program, or activity at issue should be considered in this determination.

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3. A threat to or the destruction of the historic significance of a historic property.
4. A direct threat to the health or safety of others (28 CFR 35.139).

(b) If any of these circumstances are present, the ADA coordinator should work with department members and the person requesting the modification to determine if an alternative modification is available.

(c) Where new construction or physical modification of an existing building or facility would be unfeasible or unduly burdensome, the ADA coordinator should work with department members to determine whether alternative modifications are available. Alternative methods that should be considered include (28 CFR 35.150):

1. Reassigning services, programs, or activities to accessible buildings or facilities.
2. Utilizing technology, equipment, rolling stock, or other conveyances.
3. Delivering the services, programs, or activities directly to a person with a disability by way of home visits or meeting the person at an accessible location.
4. Any other means or methods that would make services, programs, or activities readily accessible.

(d) If no alternative modification is appropriate, the ADA coordinator shall issue a written statement explaining why a modification of the service, program, or activity will not be made (28 CFR 35.150).

391.4.2 PERSONAL DEVICES AND ASSISTANCE

Although members should make every effort to comply with requests, the provision of personal devices or assistance (e.g., wheelchairs, eyeglasses, hearing aids, personal assistance in eating or using the restroom) to persons with disabilities is not required (28 CFR 35.135).

391.4.3 SURCHARGES

Surcharges shall not be imposed upon persons with disabilities to cover the costs of providing modifications (28 CFR 35.130(f)).

391.5 COMMUNICATIONS WITH PERSONS WITH DISABILITIES

Members should remain alert to the possibility of communication problems when engaging with persons with disabilities. When a member knows or suspects an individual requires assistance to effectively communicate, the member should identify the individual's choice of assistive devices, auxiliary aids, and services. The individual's preferred communication method should 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 may be effective include:

(a) The methods of communication usually used by the individual.

(b) The nature, length, and complexity of the communication involved.

(c) The context of the communication.

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In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever modification reasonably appears effective under the circumstances. This may include exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter. Once the emergency has ended, the method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

391.5.1 TYPES OF ASSISTANCE AVAILABLE

Department members shall not refuse an available type of assistive device, auxiliary aid, or service to a person with a disability who is requesting assistance. The Department will not require persons with disabilities to furnish their own assistive device, auxiliary aid, or service as a condition for receiving access to department services, programs, and activities. The Department will make every reasonable effort to provide equal access and timely assistance to persons with disabilities through a variety of assistive devices, auxiliary aids, and services (28 CFR 35.160).

The Department will not require that persons with disabilities use department-provided assistive devices, auxiliary aids, and services. Department-provided assistive devices, auxiliary aids, and services may include but are not limited to the means described in this policy.

391.5.2 AUDIO RECORDINGS AND ENLARGED PRINT

The Department may develop audio recordings to assist people who are blind or have a visual impairment. If such a recording is not available, members may read aloud from the appropriate form or provide forms with enlarged print.

391.5.3 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect, or arrestee) with individuals who normally rely on sign language or speechreading (i.e., lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the matter. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a legal proceeding.

Qualified interpreters should be:

(a) Available within a reasonable amount of time.

(b) Experienced in providing interpretation services related to law enforcement matters in the person's primary language.

(c) Familiar with the use of text- and video-based communications products and systems.

(d) Certified in either American Sign Language (ASL) or Signing Exact English (SEE).

(e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

(f) Knowledgeable of the ethical issues involved when providing interpreter services.

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Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity or when it is reasonably apparent that an interpreter is needed. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. Persons with disabilities shall not be required to provide an interpreter (28 CFR 35.160).

391.5.4 TELECOMMUNICATION SERVICES

In situations where an individual without a disability would have access to a telephone (e.g., during booking or attorney contacts), members must also provide those with communication-related disabilities the opportunity to place calls using an available TTY, TDD, or other voice, text, or video-based communications product or system. Members shall provide additional time, as needed, for effective communication due to the slower nature of assisted communications.

The Department will accept all TDD and computer modem calls placed by individuals with communications-related disabilities and received via a telecommunications relay service (28 CFR 35.162).

391.5.5 COMMUNITY VOLUNTEERS

Where qualified interpreters are unavailable to assist members, department-approved community volunteers who have demonstrated competence in communication services, such as ASL or SEE, may be called upon to provide interpreter services when appropriate. However, department members must carefully consider the nature of the interaction and the relationship between the individual with the disability and the volunteer to be reasonably satisfied that the volunteer can provide neutral and unbiased assistance.

391.5.6 FAMILY AND FRIENDS

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the interaction and relationship between the individual with the disability and the person offering services must be carefully considered to determine whether the family member or friend can provide neutral and unbiased assistance.

Except in an emergency involving an imminent threat to the safety or welfare of any person and no qualified interpreter is reasonably available, members shall not use a minor child as an interpreter (28 CFR 35.160).

391.5.7 FIELD ENFORCEMENT CONSIDERATIONS

Due to the unpredictable and varied nature of field enforcement, the Department recognizes that it is impracticable to provide immediate access to a comprehensive supply of assistive devices, auxiliary aids, and services to every member of this department. Members involved in interactions with persons with disabilities that occur in the field should assess each situation to determine if communication assistance is necessary. The length, complexity, and importance of the communication, as well as the individual's preferred method of communication, should be

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considered when determining what, if any, resources should be used and whether a qualified interpreter or other service is needed.

391.5.8 WITNESS OR VICTIM INTERVIEWS
Members who interview a witness or victim who demonstrates or states they are deaf or have a hearing loss shall make a good faith effort to secure the services of an interpreter without any unnecessary delay, unless the individual affirmatively indicates they do not need or cannot use an interpreter (Evidence Code § 754).

391.6 CUSTODIAL INTERROGATIONS
In an effort to ensure that the rights of individuals with disabilities are protected during a custodial interrogation, this department will provide reasonable modifications before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that the individual understands the process and desires to proceed without receiving a modification. *Miranda* warnings should be provided to a suspect via the individual's preferred method of communication.

Interrogations should be recorded whenever reasonably practicable. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

391.7 ARREST
If an individual with a communication-related disability is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter as soon as reasonably practicable, unless the individual indicates a preference for a different assistive device, auxiliary aid, or service, or the officer reasonably determines another effective method of communication exists under the circumstances.

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.

391.8 WEBSITE ACCESS
The ADA coordinator should work with the appropriate parties to develop online content that is readily accessible to persons with disabilities. Department web content should be developed in conformance with the most current guidelines issued by the U.S. Department of Justice and federal regulations (28 CFR 35 Subpart H; 28 CFR 35.200).

Department website content should also be made available to persons with disabilities in an alternative format upon request, if reasonably practicable.

391.9 DOCUMENTATION
Whenever any modification has been provided, the member involved should document:

(a) The type of modification, assistive device, auxiliary aid, or service provided.

(b) Whether the individual elected to use an assistive device, auxiliary aid, or service provided by the Department or another identified source, as applicable.

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(c) Whether the individual's express preference for the modification was not honored and the reason why an alternative method was used.

The documentation and any written communications exchanged should be maintained consistent with the Records Maintenance and Release Policy.

All written communications exchanged in a criminal case shall be attached to the member's report or placed into evidence.

391.10 COMPLAINTS

A member who receives a complaint or becomes aware of potential disability discrimination, an ADA violation, or a person's inability to access the department's programs, services, or activities should document the complaint and promptly refer the matter to the ADA coordinator (28 CFR 35.107). The Department shall assist persons with disabilities who require assistance to file a complaint regarding members of this department. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate.

391.11 TRAINING

Members should receive periodic training on ADA compliance, to include:

(a) Awareness and understanding of this policy, related procedures, forms, and available resources.

(b) Procedures for handling requests for modifications.

(c) Accessing assistive devices, auxiliary aids, and services needed to accommodate requests for modifications.

(d) General requirements of the ADA, including modifying policies and practices, communicating with individuals with disabilities, and identifying alternate ways to provide access to programs, services, and activities as appropriate to the member's job duties.

Management staff, even if they do not interact regularly with individuals with disabilities, should receive training as appropriate to understand and reinforce this policy.

The Training Manager should maintain records of all training provided and retain a copy in each member's training file in accordance with the established records retention schedule.

391.11.1 CALL-TAKER TRAINING

Emergency call-takers shall be trained in the use of department assistive devices, auxiliary aids, and services for communicating with individuals with communication-related disabilities. 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 calls using TTY, TDD, or other voice, text, and video-based communications products and systems.

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(d) Hands-on experience in using TTY, TDD, or other voice, text, and video-based communications products and systems.

Training should be provided for all Dispatch members who may have contact with individuals from the public who have communication-related disabilities. Refresher training should be provided as appropriate.

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Chapter 4 - Patrol Operations

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Patrol Function

400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the patrol function and address intraorganizational cooperation and information sharing.

400.1.1 SECURITY OF RADIO TRANSMISSIONS

Employees using department communications equipment shall observe the following security precautions:

- Exterior radio speakers shall only be used when absolutely necessary
- Interior radio speakers should not be audible outside the vehicle
- Whenever practicable, unattended vehicles shall be locked and communication equipment turned off
- Motor officers shall turn off communications equipment when leaving their motorcycles unattended.

Note: The preceding shall not apply if it would impose a hazard upon an employee.

400.2 POLICY

The Newport Beach Police Department provides patrol services 24 hours a day, seven days a week and will prioritize responses to requests for emergency services using available resources to enhance the safety of the public and department members.

400.3 FUNCTION

Patrol will generally be conducted by uniformed officers in clearly marked law enforcement vehicles in assigned jurisdictional areas of Name of your jurisdiction:. The function of patrol is to respond to calls for assistance and reports of criminal activity, act as a deterrent to crime, enforce state and local laws, identify community needs, provide support and assistance to the community and respond to emergencies.

Patrol services include, but are not limited to:

(a) Responding to emergency calls for service.

(b) Apprehending criminal offenders.

(c) Providing mutual aid and assistance to other agencies for emergency and law enforcement-related activities.

(d) Preventing criminal acts, traffic violations and collisions, maintaining public order and discovering hazardous situations or conditions.

(e) Responding to reports of criminal and non-criminal acts.

(f) Responding to routine calls for service, such as public assistance or public safety.

(g) Carrying out crime prevention activities such as residential inspections, business inspections and community presentations.

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(h) Carrying out community oriented policing and problem-solving activities including the application of resources to improve or resolve specific problems or situations and contacting or assisting members of the public in a positive way.

(i) Directing and controlling traffic.

400.4 INFORMATION SHARING

To the extent feasible, all information relevant to the mission of the Department should be shared among all divisions and specialized units on a timely basis. Members should be provided with opportunities on a regular basis to share information during the daily briefings and to attend briefings of other divisions or specialized units.

Additionally, information should be shared with outside agencies and the public in conformance with department policies and applicable laws. Members are encouraged to share information with other units and divisions.

400.5 CROWDS, EVENTS AND GATHERINGS

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action.

Generally, officers should consider seeking compliance through advisements and warnings for minor violations and should reserve greater enforcement options for more serious violations or when voluntary compliance with the law is not achieved.

Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws, such as Penal Code 602.1 (obstructing or intimidating business operators), when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

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Bias-Based Policing

402.1 PURPOSE AND SCOPE

This policy provides guidance to department members that affirms the Newport Beach Police Department's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the department's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

402.1.1 DEFINITIONS

Definitions related to this policy include:

Bias-based policing or improper profiling - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin (including limited English proficiency), religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4). This includes explicit and implicit biases (i.e., conscious and unconscious beliefs or attitudes towards certain groups).

This includes biased conduct, including but not limited to conduct online, such as social media use, engaged in by a peace officer in any encounter with the public, first responders, or employees of criminal justice agencies, that is motivated by bias toward any person's protected class or characteristic, whether actual or perceived as identified in Civil Code 51(b) of the Unruh Civil Rights Act. Biased conduct may result from implicit and explicit biases. Conduct is biased if a reasonable person with the same training and experience would conclude, based upon the facts, that a peace officer's conduct resulted from bias towards that person's membership in a protected class. A peace officer need not admit biased or prejudiced intent for conduct to be determined to be biased conduct (Penal Code § 13510.6; 11 CCR 1022).

402.2 POLICY

The Newport Beach Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

402.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an officer from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

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402.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

(a) In compiling personal information about a person's religious belief, practice, affiliation, national origin or ethnicity.

(b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.

402.4 MEMBER RESPONSIBILITIES

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

402.4.1 REASON FOR CONTACT

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved officer should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in policy shall require any officer to document a contact that would not otherwise require reporting.

402.4.2 REPORTING OF STOPS

Unless an exception applies under 11 CCR 999.227, an officer conducting a stop of a person shall collect the data elements required by Government Code § 12525.5 and 11 CCR 999.226 for every person stopped and prepare a stop data report. When multiple officers conduct a stop, the officer with the highest level of engagement with the person shall collect the data elements and prepare the report (11 CCR 999.227).

If multiple agencies are involved in a stop and the Newport Beach Police Department is the primary agency, the Newport Beach Police Department officer shall collect the data elements and prepare the stop data report (11 CCR 999.227).

The stop data report should be completed by the end of the officer's shift or as soon as practicable (11 CCR 999.227).

402.4.3 DISCLOSURE AND DOCUMENTATION OF TRAFFIC OR PEDESTRIAN STOP

An officer conducting a traffic or pedestrian stop shall state the reason for the stop prior to questioning the individual related to a criminal investigation or traffic violation unless the officer

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reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including but not limited to cases of terrorism or kidnapping (Vehicle Code § 2806.5).

Officers shall document the reason for the stop on any citation or report (Vehicle Code § 2806.5).

402.5 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

(a) Supervisors should discuss any issues with the involved officer and their supervisor in a timely manner.

    1. Supervisors should document these discussions in the prescribed manner.

(b) Supervisors should periodically review Mobile Audio/Video (MAV) recordings, body-worn camera (BWC) media, Mobile Digital Computer (MDC) data, and any other available resource used to document contact between officers and the public to ensure compliance with the policy.

    1. Supervisors should document these periodic reviews.

    2. Recordings or data that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.

(c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.

    1. When investigating any bias-related complaint or law enforcement activity incident that involves possible indications of officer biased conduct or improper profiling, a supervisor shall determine whether the officer engaged in conduct that constitutes biased conduct as defined in 11 CCR 1022 or improper profiling during a law enforcement activity as described in Penal Code § 13519.4(e) (Penal Code § 13510.6).

(d) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this department who discloses information concerning bias-based policing.

402.6 ADMINISTRATION

The PatrolDivision Commander should review the efforts of the Department to provide fair and objective policing and submit an annual report, including public concerns and complaints, to the Chief of Police. The report should also include a documented review of department activities with potential for bias. This may include traffic and field contacts, asset forfeiture efforts, citizen complaints, and any corrective measures taken. The annual report should not contain any identifying information about any specific complaint, member of the public, or officer. It should be reviewed by the Chief of Police to identify any changes in training or operations that should be made to improve service.

Supervisors should review the annual report and discuss the results with those they are assigned to supervise.

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402.7 TRAINING

Training on fair and objective policing and review of this policy should be conducted as directed by the Training Unit.

(a) All sworn members of this department will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of bias-based policing.

(b) Pending participation in such POST-approved training and at all times, all members of this department are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.

(c) Each sworn member of this department who received initial bias-based policing training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity and cultural trends (Penal Code § 13519.4(i)).

402.8 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Professional Standards Unit Manager shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and provided to the Records Manager for required reporting to the DOJ (Penal Code § 13012; Penal Code § 13020). See the Records Section Policy.

Beginning April 1st, 2023, supervisors should ensure that data stop reports are provided to the Records Manager for required annual reporting to the DOJ (Government Code § 12525.5) (See Records Bureau Policy).

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Briefing Training

404.1 PURPOSE AND SCOPE

Briefing training is generally conducted at the beginning of the officer's assigned shift. Briefing provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct Briefing; however officers may conduct Briefing for training purposes with supervisor approval.

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

(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 Departmental Directives or changes in Departmental Directives

(d) Reviewing recent incidents for training purposes

(e) Providing training on a variety of subjects

404.2 PREPARATION OF MATERIALS

The supervisor conducting Briefing is responsible for preparation of the materials necessary for a constructive briefing. Supervisors may delegate this responsibility to a subordinate officer in his or her absence or for training purposes.

404.3 RETENTION OF BRIEFING TRAINING RECORDS

Briefing training materials and a curriculum or summary shall be forwarded to the Training Manager for inclusion in training records, as appropriate.

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Crime and Disaster Scene Integrity

406.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

406.2 POLICY

It is the policy of the Newport Beach Police Department to secure crime or disaster scenes so that evidence is preserved, and to identify and mitigate the dangers associated with a major crime or disaster scene for the safety of the community and those required to enter or work near the scene.

406.3 SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident is generally responsible for the immediate safety of the public and preservation of the scene. Officers shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once an officer has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, the officer shall maintain the crime or disaster scene until he/she is properly relieved by a supervisor or other designated person.

406.4 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the first responder's function at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation:

(a) Broadcast emergency information, including requests for additional assistance and resources.

(b) Provide for the general safety of those within the immediate area by mitigating, reducing or eliminating threats or dangers.

(c) Locate or identify suspects and determine whether dangerous suspects are still within the area.

(d) Provide first aid to injured parties if it can be done safely.

(e) Evacuate the location safely as required or appropriate.

(f) Secure the inner perimeter.

(g) Protect items of apparent evidentiary value.

(h) Secure an outer perimeter.

(i) Identify potential witnesses.

(j) Start a chronological log noting critical times and personnel allowed access.

406.5 SEARCHES

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to determine if suspects are present and continue to pose a threat. Once officers are satisfied that no additional suspects are present and/or there are no injured

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persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

406.5.1 CONSENT

When possible, officers should seek written consent to search from authorized individuals. However, in the case of serious crimes or major investigations, it may be prudent to also obtain a search warrant. Consent as an additional authorization may be sought, even in cases where a search warrant has been granted.

406.6 EXECUTION OF HEALTH ORDERS

Any sworn member of this department is authorized to enforce all orders of the local health officer that have been issued for the purpose of preventing the spread of any contagious, infectious or communicable disease (Health and Safety Code § 120155).

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Crisis Response Unit

408.1 PURPOSE AND SCOPE

The Crisis Response Unit (CRU) is comprised of two specialized teams: the Crisis Negotiation Team (CNT) and the Special Weapons and Tactics Team (SWAT). The unit has been established to provide specialized support in handling critical field operations where intense negotiations and/or special tactical deployment methods beyond the capacity of field officers appear to be necessary. This policy is written to comply with the guidelines established in the Attorney General's Commission on Special Weapons and Tactics Report (September 2002) and the POST 2005 SWAT Operational Guidelines and Standardized Training Recommendations (Penal Code § 13514.1).

408.1.1 OPERATIONAL AND ADMINISTRATIVE POLICY

The Policy Manual sections pertaining to the Crisis Response Unit are divided into Administrative and Operational Policy and Procedures. Since situations that necessitate the need for such a police response vary greatly from incident to incident and such events often demand on-the-scene evaluation, the Operational Policy outlined in this manual section serves as a guideline to department personnel allowing for appropriate on scene decision making as required. The Administrative Procedures, however, are more restrictive and few exceptions should be taken.

408.1.2 SWAT TEAM DEFINED

A SWAT team is a designated unit of law enforcement officers that is specifically trained and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex, or unusual that they may exceed the capabilities of first responders or investigative units including, but not limited to, hostage taking, barricaded suspects, snipers, terrorist acts and other high-risk incidents. As a matter of department policy, such a unit may also be used to serve high-risk warrants, both search and arrest, where public and officer safety issues warrant the use of such a unit.

408.2 LEVELS OF CAPABILITY/TRAINING

408.2.1 LEVEL I

A level I SWAT team is a basic team capable of providing containment and intervention with critical incidents that exceed the training and resources available to line-level officers. This does not include ad hoc teams of officers that are formed around a specific mission, detail or incident (e.g. active shooter response). Generally 5% of the basic team's on-duty time should be devoted to training.

408.2.2 LEVEL II

A level II, Intermediate level SWAT team is capable of providing containment and intervention. Additionally, these teams possess tactical capabilities above the Level I teams. These teams may or may not work together on a daily basis, but are intended to respond to incidents as a team. At

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least 5% of their on-duty time should be devoted to training with supplemental training for tactical capabilities above the Level I team.

408.2.3 LEVEL III

A Level III, Advanced level SWAT team is a SWAT team whose personnel function as a full-time unit. Generally 25% of their on-duty time is devoted to training. Level III teams operate in accordance with contemporary best practices. Such units possess both skills and equipment to utilize tactics beyond the capabilities of Level I and Level II teams.

408.3 POLICY

It shall be the policy of this department to maintain a SWAT team and to provide the equipment, manpower, and training necessary to maintain a SWAT team. The SWAT team should develop sufficient resources to perform three basic operational functions:

(a) Command and Control

(b) Containment

(c) Entry/Apprehension/Rescue

It is understood it is difficult to categorize specific capabilities for critical incidents. Training needs may vary based on the experience level of the team personnel, team administrators and potential incident commanders. Nothing in this policy shall prohibit individual teams from responding to a situation that exceeds their training levels due to the exigency of the circumstances. The preservation of innocent human life is paramount.

408.3.1 POLICY CONSIDERATIONS

A needs assessment should be conducted to determine the type and extent of SWAT missions and operations appropriate to this department. The assessment should consider the team's capabilities and limitations and should be reviewed annually by the SWAT Commander or his/her designee.

408.3.2 ORGANIZATIONAL PROCEDURES

This department shall develop a separate written set of organizational procedures which should address, at minimum, the following:

(a) Locally identified specific missions the team is capable of performing.

(b) Team organization and function.

(c) Personnel selection and retention criteria.

(d) Training and required competencies.

(e) Procedures for activation and deployment.

(f) Command and control issues, including a clearly defined command structure.

(g) Multi-agency response.

(h) Out-of-jurisdiction response.

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(i) Specialized functions and supporting resources.

408.3.3 OPERATIONAL PROCEDURES

This department shall develop a separate written set of operational procedures in accordance with the determination of their level of capability, using sound risk reduction practices. The operational procedures should be patterned after the National Tactical Officers Association Suggested SWAT Best Practices. Because such procedures are specific to CRU members and will outline tactical and officer safety issues, they are not included within this policy. The operational procedures should include, at minimum, the following:

(a) Designated personnel responsible for developing an operational or tactical plan prior to, and/or during SWAT operations (time permitting).

1. All SWAT team members should have an understanding of operational planning.
2. SWAT team training should consider planning for both spontaneous and planned events.
3. SWAT teams should incorporate medical emergency contingency planning as part of the SWAT operational plan.

(b) Plans for mission briefings conducted prior to an operation, unless circumstances require immediate deployment.

1. When possible, briefings should include the specialized units and supporting resources.

(c) Protocols for a sustained operation should be developed which may include relief, rotation of personnel and augmentation of resources.

(d) A generic checklist to be worked through prior to initiating a tactical action as a means of conducting a threat assessment to determine the appropriate response and resources necessary, including the use of SWAT.

(e) The appropriate role for a trained negotiator.

(f) A standard method of determining whether or not a warrant should be regarded as high-risk.

(g) A method for deciding how best to serve a high-risk warrant with all reasonably foreseeable alternatives being reviewed in accordance with risk/benefit criteria prior to selecting the method of response.

(h) Post incident scene management including:

1. Documentation of the incident.
2. Transition to investigations and/or other units.
3. Debriefing after every deployment of the SWAT team.

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(a) After-action team debriefing provides evaluation and analysis of critical incidents and affords the opportunity for individual and team assessments, helps to identify training needs, and reinforces sound risk management practices.

(b) Such debriefing should not be conducted until involved officers have had the opportunity to individually complete necessary reports or provide formal statements.

(c) In order to maintain candor and a meaningful exchange, debriefing will generally not be recorded.

(d) When appropriate, debriefing should include specialized units and resources.

(i) Sound risk management analysis.

(j) Standardization of equipment deployed.

408.4 TRAINING NEEDS ASSESSMENT

The SWAT/CRU Commander shall conduct an annual SWAT Training needs assessment to ensure that training is conducted within team capabilities, department policy and the training guidelines as established by POST (11 C.C.R. § 1084).

408.4.1 INITIAL TRAINING

SWAT team operators and SWAT supervisors/team leaders should not be deployed until successful completion of the POST-certified Basic SWAT Course or its equivalent.

(a) To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content (topics) meet or exceed department requirements or POST standardized training recommendations.

408.4.2 UPDATED TRAINING

Appropriate team training for the specialized SWAT functions and other supporting resources should be completed prior to full deployment of the team.

SWAT team operators and SWAT supervisors/team leaders should complete update or refresher training as certified by POST, or its equivalent, every 24 months.

408.4.3 SUPERVISION AND MANAGEMENT TRAINING

Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level to ensure personnel who provide active oversight at the scene of SWAT operations understand the purpose and capabilities of the teams.

Command personnel who may assume incident command responsibilities should attend SWAT or Critical Incident Commander course or its equivalent. SWAT command personnel should attend a POST-certified SWAT commander or tactical commander course, or its equivalent.

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408.4.4 SWAT ONGOING TRAINING

Training shall be coordinated by the CRU Commander. The CRU Commander may conduct monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training shall consist of the following:

(a) Each SWAT member shall perform a physical fitness test twice each year. A minimum qualifying score must be attained by each team member.

(b) Any SWAT team member failing to attain the minimum physical fitness qualification score will be notified of the requirement to retest and attain a qualifying score. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.

(c) Those members who are on vacation, ill, or are on light duty status with a doctor's note of approval on the test date, shall be responsible for reporting to a team supervisor and taking the test within 30 days of their return to regular duty. Any member, who fails to arrange for and perform the physical fitness test within the 30-day period, shall be considered as having failed to attain a qualifying score for that test period.

(d) Quarterly, each SWAT team member shall perform the mandatory SWAT weapons qualification course. The qualification course shall consist of the SWAT basic courses for each weapon. Failure to qualify will require that officer to seek remedial training from a team range master approved by the CRU Commander. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.

408.4.5 TRAINING SAFETY

Use of a designated safety officer should be considered for all tactical training.

408.4.6 SCENARIO BASED TRAINING

SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

408.4.7 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the Training Unit. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file shall be maintained with documentation and records of all team training.

408.5 UNIFORMS, EQUIPMENT, AND FIREARMS

408.5.1 UNIFORMS

SWAT teams from this agency should wear uniforms that clearly identify team members as law enforcement officers. It is recognized that certain tactical conditions may require covert movement. Attire may be selected appropriate to the specific mission.

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408.5.2 EQUIPMENT
SWAT teams from this agency should be adequately equipped to meet the specific mission(s) identified by the agency.

408.5.3 FIREARMS
Weapons and equipment used by SWAT, the specialized units, and the supporting resources should be agency-issued or approved, including any modifications, additions, or attachments.

408.5.4 OUTSIDE AGENCY REQUEST FOR THE ARMORED RESCUE VEHICLE (ARV)
If an outside agency requests the use of the Department's Armored Rescue Vehicle during a critical incident in their city involving the deployment of that agency's SWAT Team, the Watch Commander shall:

- Evaluate and approve the request for mutual aid
- Assign an on duty SWAT Officer and SWAT Supervisor to deploy the ARV
- If no SWAT personnel are on duty, have Dispatch contact the SWAT Commander or one of the SWAT Supervisors in this order of priority
- Have Dispatch ensure a SWAT Supervisor is going to respond as well as a SWAT Team member
- Notify the Patrol Division Commander

408.6 MANAGEMENT/SUPERVISION OF CRISIS RESPONSE UNIT
The Commander of the CRU shall be selected by the Chief of Police upon recommendation of staff.

408.6.1 PRIMARY UNIT MANAGER
Under the direction of the Chief of Police, through the Patrol Division Commander, the Crisis Response Unit shall be managed by a lieutenant.

408.6.2 TEAM SUPERVISORS
The Negotiation Team and each Special Weapons and Tactics Team will be supervised by a sergeant.

The team supervisors shall be selected by the Chief of Police upon specific recommendation by staff and the CRU Commander.

The following represent the supervisor responsibilities for the Crisis Response Unit.

(a) The Negotiation Team supervisor's primary responsibility is to supervise the operations of the Negotiation Team which will include deployment, training, first line participation, and other duties as directed by the CRU Commander.

(b) The Special Weapons and Tactics Team supervisor's primary responsibility is to supervise the operations of the SWAT Team, which will include deployment, training, first line participation, and other duties as directed by the CRU Commander.

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408.7 CRISIS NEGOTIATION TEAM ADMINISTRATIVE PROCEDURES

The Crisis Negotiation Team has been established to provide skilled verbal communicators who may be utilized to attempt to de-escalate and effect surrender in critical situations where suspects have taken hostages, barricaded themselves, or have suicidal tendencies.

The following procedures serve as directives for the administrative operation of the Crisis Negotiation Team.

408.7.1 SELECTION OF PERSONNEL

Interested sworn personnel, who are off probation, shall submit a change of assignment request to their appropriate Division Commander. A copy will be forwarded to the CRU Commander and the Crisis Negotiation Team supervisor. Qualified applicants will then be invited to an oral interview. The oral board will consist of the CRU Commander, the Crisis Negotiation Team supervisor, and a third person to be selected by the two. Interested personnel shall be evaluated by the following criteria:

(a) Recognized competence and ability as evidenced by performance.

(b) Demonstrated good judgment and understanding of critical role of negotiator and negotiation process.

(c) Effective communication skills to ensure success as a negotiator.

(d) Special skills, training, or appropriate education as it pertains to the assignment.

(e) Commitment to the unit, realizing that the assignment may necessitate unusual working hours, conditions, and training obligations.

The oral board shall submit a list of successful applicants to staff for final selection.

408.7.2 TRAINING OF NEGOTIATORS

Those officers selected as members of the Negotiation Team should attend the Basic Negotiators Course as approved by the Commission on Peace Officer Standards and Training (POST) prior to primary use in an actual crisis situation. Untrained officers may be used in a support or training capacity. Additional training will be coordinated by the team supervisor.

A minimum of one training day per quarter will be required to provide the opportunity for role playing and situational training necessary to maintain proper skills. This will be coordinated by the team supervisor.

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the team supervisor. Performance and efficiency levels, established by the team supervisor, will be met and maintained by all team members. Any member of the Negotiation Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the unit.

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408.8 SWAT TEAM ADMINISTRATIVE PROCEDURES

The Special Weapons and Tactics (SWAT) Team was established to provide a skilled and trained team which may be deployed during events requiring specialized tactics in such situations as cases where suspects have taken hostages and/or barricaded themselves as well as prolonged or predictable situations in which persons armed or suspected of being armed pose a danger to themselves or others.

The following procedures serve as directives for the administrative operation of the Special Weapons and Tactics Team.

408.8.1 SELECTION OF PERSONNEL

Interested sworn personnel who are off probation shall submit a change of assignment request to their appropriate Division Commander, a copy of which will be forwarded to the CRU Commander and other SWAT supervisors. Those qualifying applicants will then be invited to participate in the testing process. The order of the tests will be given at the discretion of the CRU Commander. The testing process will consist of an oral board, physical agility, SWAT basic weapons, and team evaluation.

(a) Oral board: The oral board will consist of personnel selected by the CRU Commander. Applicants will be evaluated by the following criteria:

1. Recognized competence and ability as evidenced by performance;
2. Demonstrated good judgment and understanding of critical role of SWAT member;
3. Special skills, training, or appropriate education as it pertains to this assignment; and,
4. Commitment to the unit, realizing that the additional assignment may necessitate unusual working hours, conditions, and training obligations.

(b) Physical agility: The physical agility test is designed to determine the physical capabilities of the applicant as it relates to performance of SWAT-related duties. The test and scoring procedure will be established by the CRU Commander. A minimum qualifying score shall be attained by the applicant to be considered for the position.

(c) SWAT basic weapons: Candidates will be invited to shoot the SWAT basic courses of fire for each weapon with a minimum score attained to qualify.

(d) Team evaluation: Current team members will evaluate each candidate on his or her field tactical skills, teamwork, ability to work under stress, communication skills, judgment, and any special skills that could benefit the team.

(e) A list of successful applicants shall be submitted to staff, by the CRU Commander, for final selection.

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408.8.2 TEAM EVALUATION

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the CRU Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT Team members. Any member of the SWAT Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.

408.9 OPERATION GUIDELINES FOR CRISIS RESPONSE UNIT

The following procedures serve as guidelines for the operational deployment of the Crisis Response Unit. Generally, the Special Weapons and Tactics Team and the Crisis Negotiation Team will be activated together. It is recognized, however, that a tactical team may be used in a situation not requiring the physical presence of the Crisis Negotiation Team such as warrant service operations. This shall be at the discretion of the CRU Commander.

408.9.1 ON-SCENE DETERMINATION

The supervisor in charge on the scene of a particular event will assess whether the Crisis Response Unit is to respond to the scene. Upon final determination by the Watch Commander, he/she will notify the CRU Commander.

408.9.2 APPROPRIATE SITUATIONS FOR USE OF CRISIS RESPONSE UNIT

The following are examples of incidents which may result in the activation of the Crisis Response Unit:

(a) Barricaded suspects who refuse an order to surrender.

(b) Incidents where hostages are taken.

(c) Cases of suicide threats.

(d) Arrests of dangerous persons.

(e) Any situation that could enhance the ability to preserve life, maintain social order, and ensure the protection of property.

408.9.3 OUTSIDE AGENCY REQUESTS

Requests by field personnel for assistance from outside agency crisis units must be approved by the Watch Commander. Deployment of the Newport Beach Police Department Crisis Response Unit in response to requests by other agencies must be authorized by a Division Commander.

408.9.4 MULTI-JURISDICTIONAL SWAT OPERATIONS

The SWAT team, including relevant specialized units and supporting resources, should develop protocols, agreements, MOU's, or working relationships to support multi-jurisdictional or regional responses.

(a) If it is anticipated that multi-jurisdictional SWAT operations will regularly be conducted; SWAT multi-agency and multi-disciplinary joint training exercises are encouraged.

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(b) Members of the Newport Beach Police Department SWAT team shall operate under the policies, procedures and command of the Newport Beach Police Department when working in a multi-agency situation.

408.9.5 MOBILIZATION OF CRISIS RESPONSE UNIT

The On-Scene supervisor shall make a request to the Watch Commander for the Crisis Response Unit. The Watch Commander shall then notify the CRU Commander. If unavailable, a team supervisor shall be notified. A current mobilization list shall be maintained in the Watch Commander's office by the CRU Commander. The Watch Commander will then notify the Patrol Division Commander as soon as practical.

The Watch Commander should advise the CRU Commander with as much of the following information which is available at the time:

(a) The number of suspects, known weapons and resources.

(b) If the suspect is in control of hostages.

(c) If the suspect is barricaded.

(d) The type of crime involved.

(e) If the suspect has threatened or attempted suicide.

(f) The location of the command post and a safe approach to it.

(g) The extent of any perimeter and the number of officers involved.

(h) Any other important facts critical to the immediate situation and whether the suspect has refused an order to surrender.

The CRU Commander or supervisor shall then call selected officers to respond.

408.9.6 FIELD UNIT RESPONSIBILITIES

While waiting for the Crisis Response Unit, field personnel should, if safe, practical and sufficient resources exist:

(a) Establish an inner and outer perimeter.

(b) Establish a command post outside of the inner perimeter.

(c) Establish an arrest/response team. The team actions may include:

1. Securing any subject or suspect who may surrender.
2. Taking action to mitigate a deadly threat or behavior.

(d) Evacuate any injured persons or citizens in the zone of danger.

(e) Attempt to establish preliminary communication with the suspect. Once the CRU has arrived, all negotiations should generally be halted to allow the negotiators and SWAT time to set up.

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(f) Be prepared to brief the CRU Commander on the situation.

(g) Plan for, and stage, anticipated resources.

408.9.7 ON-SCENE COMMAND RESPONSIBILITIES

Upon arrival of the Crisis Response Unit at the scene, the Incident Commander shall brief the CRU Commander and team supervisors about the situation. Upon review, it will be the Incident Commander's decision, with input from the CRU Commander, whether to deploy the Crisis Response Unit. Once the Incident Commander authorizes deployment, the CRU Commander will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security, and support for the Crisis Response Unit. The Incident Commander and the CRU Commander (or his or her designee) shall maintain communications at all times.

408.9.8 COMMUNICATION WITH CRISIS RESPONSE UNIT PERSONNEL

All of those persons who are non-Crisis Response Unit personnel should refrain from any non-emergency contact or interference with any member of the unit during active negotiations. Operations require the utmost in concentration by involved personnel and, as a result, no one should interrupt or communicate with Crisis Team personnel directly. All non-emergency communications shall be channeled through the Negotiation Team Sergeant or his or her designee.

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Ride-Along Policy

410.1 PURPOSE AND SCOPE

The Ride-Along Program provides an opportunity for citizens to experience the law enforcement function first hand. This policy provides the requirements, approval process, and hours of operation for the Ride-Along Program.

410.1.1 ELIGIBILITY

The Newport Beach Police Department Ride-Along Program is offered to residents, students and those employed within the City. Every attempt will be made to accommodate interested persons however any applicant may be disqualified without cause.

The following factors may be considered in disqualifying an applicant and are not limited to:

- Being under 15 years of age
- Prior criminal history
- Pending criminal action
- Pending lawsuit against the Department
- Denial by any supervisor

410.1.2 AVAILABILITY

The Ride-Along Program is available on most days of the week, with certain exceptions. The ride-along times are from 10:00 a.m. to 11:00 p.m. Exceptions to this schedule may be made as approved by the Chief of Police, Division Commander, or Watch Commander.

410.2 PROCEDURE TO REQUEST A RIDE-ALONG

Generally, ride-along requests will be scheduled by the Watch Commander. The participant will complete a ride-along waiver form. Information requested will include a valid ID or California driver's license, address, and telephone number. If the participant is under 18 years of age, a parent/guardian must be present to complete the Ride-Along Form.

The Watch Commander will schedule a date, based on availability, at least one week after the date of application. If approved, a copy will be forwarded to the respective Watch Commander as soon as possible for his/her scheduling considerations.

If the ride-along is denied after the request has been made, a representative of the Department will contact the applicant and advise him/her of the denial.

410.2.1 PROGRAM REQUIREMENTS

Once approved, civilian ride-alongs will be allowed to ride no more than once every six months. An exception would apply to the following: Cadets, Explorers, RSVP, Chaplains, Reserves, police applicants, and all others with approval of the Watch Commander.

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An effort will be made to ensure that no more than one citizen will participate in a ride-along during any given time period. Normally, no more than one ride-along will be allowed in the officer's vehicle at a given time.

Ride-along requirements for police cadets are covered in the Police Cadets Policy.

410.2.2 SUITABLE ATTIRE

Any person approved to ride along is required to be suitably dressed in collared shirt, blouse or jacket, slacks and shoes. Sandals, T-shirts, tank tops, shorts and ripped or torn blue jeans are not permitted. Hats and ball caps will not be worn in the police vehicle. The Watch Commander or field supervisor may refuse a ride along to anyone not properly dressed.

410.2.3 PEACE OFFICER RIDE-ALONGS

Off-duty members of this department or any other law enforcement agency will not be permitted to ride-along with on-duty officers without the expressed consent of the Watch Commander. In the event that such a ride-along is permitted, the off-duty employee shall not be considered on-duty and shall not represent themselves as a peace officer or participate in any law enforcement activity except as emergency circumstances may require.

410.2.4 RIDE-ALONG CRIMINAL HISTORY CHECK

All Ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Department of Justice Automated Criminal History System check through CLETS prior to their approval as a ride-along with a law enforcement officer (provided that the ride-along is not an employee of the Newport Beach Police Department) (CLETS Policies, Practices and Procedures Manual § 1.6.1.F.2.).

410.3 OFFICER'S RESPONSIBILITY

The officer shall advise the dispatcher that a ride-along is present in the vehicle before going into service. Officers shall consider the safety of the ride-along at all times. Officers should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher will be advised of the situation and as soon as practical have another police unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

410.4 CONTROL OF RIDE-ALONG

The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit their participation. These instructions should include:

(a) The ride-along will follow the directions of the officer

(b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment

(c) The ride-along may terminate the ride at any time and the officer may return the observer to their home or to the station if the ride-along interferes with the performance of the officer’s duties

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(d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety

(e) Officers will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen

(f) Under no circumstance shall a civilian ride along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person

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Hazardous Material Response

412.1 PURPOSE AND SCOPE

Exposure to hazardous materials presents potential harm to department members and the public. This policy outlines the responsibilities of members who respond to these events and the factors that should be considered while on-scene, including the reporting of exposures and supervisor responsibilities. To comply with 8 CCR § 5194, the following is to be the policy of this department.

412.1.1 DEFINITIONS

Definitions related to this policy include:

Hazardous material – A substance which, by its nature, containment, or reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

412.2 POLICY

It is the policy of the Newport Beach Police Department to respond to hazardous material emergencies with due regard for the safety of the public and those members responding to such incidents.

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. When members come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

The following steps should be considered at any scene involving suspected hazardous materials:

(a) Attempt to identify the type of hazardous substance from a safe distance using distance-observing devices (e.g., binoculars, spotting scopes, unmanned aerial systems) if they are available. Identification can be determined by:
    1. Placard, container labeling, or Safety Data Sheets.
    2. Driver's manifest or statements from the person transporting the material.
    3. Other visual or physical warnings.

(b) Notify the fire department.

(c) Provide first-aid for injured parties if it can be done safely and without contamination.

(d) Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.

(e) Notify the local health authority. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 105215).

(f) Notify the Department of Toxic Substances Control. This is mandatory when an officer comes in contact with, or is aware of, the presence of a suspected hazardous

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substance at a site where an illegal controlled substance is or was manufactured (Health and Safety Code § 79355).

Members should have access to the North American Emergency Response Guidebook.

412.4 REPORTING EXPOSURE

Department members who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the member in an employee memorandum that shall be forwarded via chain of command to the Watch Commander as soon as practicable. Should the affected member be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the report.

Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness in addition to a crime report or incident report as applicable.

412.4.1 SUPERVISOR RESPONSIBILITY

When a supervisor has been informed that a member has been exposed to a hazardous material, the supervisor shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of members, safety equipment is available through supervisory personnel. Safety items not maintained by the Department will be obtained through the fire department.

412.5 TRAINING

The Training Manager shall ensure that annual hazardous materials training is provided to all officers.

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Hostage and Barricade Incidents

414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

414.1.1 DEFINITIONS

Definitions related to this policy include:

Barricade situation - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

Hostage situation - An incident where it is reasonable to believe a person is:

(a) Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.

(b) Unlawfully held against his/her will under threat or actual use of force.

414.2 POLICY

It is the policy of the Newport Beach Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

414.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, department-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

414.3.1 EMERGENCY COMMUNICATIONS

Only an officer who has been designated by the District Attorney or Attorney General may use or authorize the use of an electronic amplifying or recording device to eavesdrop on or record,

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or both, oral communication in response to an emergency situation involving a hostage or the barricading of a location, and only when (Penal Code § 633.8(b)):

(a) The officer reasonably determines an emergency situation exists that involves the immediate danger of death or serious physical injury to any person within the meaning of 18 USC § 2518(7)(a)(i),

(b) The officer reasonably determines that the emergency situation requires that eavesdropping on oral communication occur immediately, and

(c) There are grounds upon which an order could be obtained pursuant to 18 USC § 2516(2).

(d) An application for an order approving the eavesdropping and complying with the requirements of Penal Code § 629.50 is made within 48 hours of the beginning of the eavesdropping.

(e) The contents of any oral communications overheard are recorded on tape or other comparable device.

414.4 FIRST RESPONDER CONSIDERATIONS

First responding officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

414.4.1 BARRICADE SITUATION

Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

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(c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

(d) Provide responding emergency personnel with a safe arrival route to the location.

(e) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.

(f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.

(g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.

(h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

(i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Press Information Officer (PIO).

(j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

(k) Establish a command post.

414.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options, while not all-inclusive or in any particular order, should be considered:

(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

(c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).

(d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.

(e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

(f) Provide responding emergency personnel with a safe arrival route to the location.

(g) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.

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(h) Coordinate pursuit or surveillance vehicles and control of travel routes.

(i) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.

(j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.

(k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

(l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the PIO.

(m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

414.5 SUPERVISOR RESPONSIBILITIES

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting a Crisis Response Team (CRT) response if appropriate and apprising the CRT Commander of the circumstances. In addition, the following options should be considered:

(a) Ensure injured persons are evacuated and treated by medical personnel.

(b) Ensure the completion of necessary first responder responsibilities or assignments.

(c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.

(d) Establish a command post location as resources and circumstances permit.

(e) Designate assistants who can help with intelligence information and documentation of the incident.

(f) If it is practicable to do so, arrange for video documentation of the operation.

(g) Consider contacting utility and communication providers to restrict such services (e.g., restricting electric power, gas, telephone service).

1. When considering restricting communication services, a supervisor should make the determination that there is reason to believe an emergency situation exists involving immediate danger of death or great bodily harm and that an interruption to communication services is necessary to protect public safety (Penal Code § 11471). The supervisor must ensure the Department obtains a court order, in accordance with Penal Code § 11472, prior to requesting the interruption. In the case of an extreme emergency when there is insufficient time to obtain an order prior to the request, application for the order must be submitted within six hours after initiating the interruption. If six hours is not possible, then the application for the court order shall be made at the first reasonably available opportunity, but no later than 24 hours in accordance with Penal Code § 11475.

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(h) Ensure adequate law enforcement coverage for the remainder of the City during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or Dispatch.

(i) Identify a media staging area outside the outer perimeter and have the department Press Information Officer or a designated temporary media representative provide media access in accordance with the Media Relations Policy.

(j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.

(k) Debrief personnel and review documentation as appropriate.

414.6 CRT RESPONSIBILITIES

The Incident Commander will decide, with input from the CRT Commander, whether to deploy the CRT during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the CRT Commander or the authorized designee will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and evacuation, media access and support for the CRT. The Incident Commander and the CRT Commander or the authorized designee shall maintain communications at all times.

414.7 REPORTING

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for completion and/or coordination of incident reports.

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Response to Bomb Calls

416.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Newport Beach Police Department in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

416.2 POLICY

It is the policy of the Newport Beach Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

416.3 RECEIPT OF BOMB THREAT

Department members receiving a bomb threat should obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved in accordance with established department evidence procedures.

The member receiving the bomb threat should ensure that the Watch Commander is immediately advised and informed of the details. This will enable the Watch Commander to ensure that the appropriate personnel are dispatched, and, as appropriate, the threatened location is given an advance warning.

416.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

416.4.1 NEWPORT BEACH POLICE DEPARTMENT FACILITY

If the bomb threat is against the Newport Beach Police Department facility, the Watch Commander will direct and assign officers as required for coordinating a general building search or evacuation of the police department, as he/she deems appropriate.

416.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of the Newport Beach Police Department that is not the property of this department, the appropriate agency will be promptly informed of the threat. Assistance to the other entity may be provided as the Watch Commander deems appropriate.

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416.4.3 FEDERAL BUILDING OR PROPERTY

If the bomb threat is against a federal building or property, the Federal Protective Service should be immediately notified. The Federal Protective Service provides a uniformed law enforcement response for most facilities, which may include use of its Explosive Detector Dog teams.

If the bomb threat is against a federal government property where the Federal Protective Service is unable to provide a timely response, the appropriate facility's security or command staff should be notified.

Bomb threats against a military installation should be reported to the military police or other military security responsible for the installation.

416.5 PRIVATE FACILITY OR PROPERTY

When a member of this department receives notification of a bomb threat at a location in the City of Name of your jurisdiction:, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

(a) The location of the facility.

(b) The nature of the threat.

(c) Whether the type and detonation time of the device is known.

(d) Whether the facility is occupied and, if so, the number of occupants currently on-scene.

(e) Whether the individual is requesting police assistance at the facility.

(f) Whether there are any internal facility procedures regarding bomb threats in place, such as:

1. No evacuation of personnel and no search for a device.
2. Search for a device without evacuation of personnel.
3. Evacuation of personnel without a search for a device.
4. Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that the Watch Commander is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

416.5.1 ASSISTANCE

The Watch Commander should be notified when police assistance is requested. The Watch Commander will make the decision whether the Department will render assistance and at what level. Information and circumstances that indicate a reasonably apparent, imminent threat to the safety of either the facility or the public may require a more active approach, including police control over the facility.

Should the Watch Commander determine that the Department will assist or control such an incident, he/she will determine:

(a) The appropriate level of assistance.

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(b) The plan for assistance.

(c) Whether to evacuate and/or search the facility.

(d) Whether to involve facility staff in the search or evacuation of the building.

1. The person in charge of the facility should be made aware of the possibility of damage to the facility as a result of a search.
2. The safety of all participants is the paramount concern.

(e) The need for additional resources, including:

1. Notification and response, or standby notice, for fire and emergency medical services.

Even though a facility does not request police assistance to clear the interior of a building, based upon the circumstances and known threat, officers may be sent to the scene to evacuate other areas that could be affected by the type of threat, or for traffic and pedestrian control.

416.6 FOUND DEVICE

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

(a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.

(b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.

(c) Personnel should not transmit on any equipment that is capable of producing radio frequency energy within the evacuation area around the suspected device. This includes the following:

1. Two-way radios
2. Cell phones
3. Other personal communication devices

(d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.

(e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.

(f) A safe access route should be provided for support personnel and equipment.

(g) Search the area for secondary devices as appropriate and based upon available resources.

(h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.

(i) Promptly relay available information to the Watch Commander including:

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2. The exact location of the device.
3. A full description of the device (e.g., size, shape, markings, construction).
4. The anticipated danger zone and perimeter.
5. The areas to be evacuated or cleared.

416.7 EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic events, a rapid response may help to minimize injury to victims, minimize contamination of the scene by gathering crowds, or minimize any additional damage from fires or unstable structures.

416.7.1 CONSIDERATIONS

Officers responding to explosions, whether accidental or a criminal act, should consider the following actions:

(a) Assess the scope of the incident, including the number of victims and extent of injuries.
(b) Request additional personnel and resources, as appropriate.
(c) Assist with first aid.
(d) Identify and take appropriate precautions to mitigate scene hazards, such as collapsed structures, bloodborne pathogens and hazardous materials.
(e) Assist with the safe evacuation of victims, if possible.
(f) Establish an inner perimeter to include entry points and evacuation routes. Search for additional or secondary devices.
(g) Preserve evidence.
(h) Establish an outer perimeter and evacuate if necessary.
(i) Identify witnesses.

416.7.2 NOTIFICATIONS

When an explosion has occurred, the following people should be notified as appropriate:

- Fire department
- Bomb squad
- Additional department personnel, such as investigators and forensic services
- Field supervisor
- Watch Commander
- Other law enforcement agencies, including local, state or federal agencies, such as the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Other government agencies, as appropriate

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416.7.3 CROWD CONTROL

Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel.

416.7.4 PRESERVATION OF EVIDENCE

As in any other crime scene, steps should immediately be taken to preserve the scene. The Watch Commander should assign officers to protect the crime scene area, which could extend over a long distance. Consideration should be given to the fact that evidence may be imbedded in nearby structures or hanging in trees and bushes.

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Mental Illness Commitments

418.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

418.2 POLICY

It is the policy of the Newport Beach Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

418.3 AUTHORITY

An officer having probable cause may take a person into custody and place the person in an approved mental health facility for 72-hour treatment and evaluation when the officer believes that, as a result of a mental disorder, the person is a danger to him/herself or others or the person is gravely disabled (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5585.50).

When determining whether to take a person into custody, officers are not limited to determining the person is an imminent danger and shall consider reasonably available information about the historical course of the person's mental disorder, which may include evidence presented from any of the following (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05):

(a) An individual who is providing or has provided mental health treatment or related support services to the person

(b) A family member

(c) The person subject to the determination or anyone designated by the person

418.3.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for a 5150 commitment, the officer may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the person so desires, the officers should:

(a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.

(b) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

If at any point the person changes their mind regarding voluntary evaluation, officers should proceed with the 5150 commitment, if appropriate.

418.3.2 RESTRAINTS

If the patient is violent or potentially violent, the officer will notify the staff of this concern. The staff member in charge will have discretion as to whether soft-restraints will be used. If these restraints are desired, the officer will wait while they are being applied to help provide physical control of the patient, if needed.

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418.3.3 MENTAL HEALTH DOCUMENTATION
The officer will complete an Application For 72-Hour Detention for Evaluation and Treatment form (MH-302) and provide it to the staff member assigned to that patient. The officer will retain a copy of the 72-hour evaluation for inclusion in the case report. The officer shall also provide a verbal summary to an emergency department staff member regarding the circumstances leading to the involuntary detention.

418.3.4 SECURING OF WEAPONS
If a receiving and secured facility prohibits weapons or if an extraordinary event occurs in the treatment facility and officers determine a need to secure their firearms, the firearm shall be secured in the appropriate gun locker at the facility or in the police unit.

418.4 CONSIDERATIONS AND RESPONSIBILITIES
Any officer handling a call involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:

(a) Available information that might assist in determining the cause and nature of the person’s action or stated intentions.

(b) Community or neighborhood mediation services.

(c) Conflict resolution and de-escalation techniques.

(d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

Officers should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

418.4.1 SECURING OF PROPERTY
When a person is taken into custody for evaluation, or within a reasonable time thereafter, and unless a responsible relative, guardian or conservator is in possession of the person's personal property, the officer shall take reasonable precautions to safeguard the individual’s personal property in his/her possession or on the premises occupied by the person (Welfare and Institutions Code § 5150).

The officer taking the person into custody shall provide a report to the court that describes the person’s property and its disposition in the format provided in Welfare and Institutions Code § 5211, unless a responsible person took possession of the property, in which case the officer shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150).

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418.5 TRANSPORTATION

Transport for any individual for a 5150 commitment shall be conducted in accordance with the Transporting Persons in Custody Policy.

Officers may transport individuals in a patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy.

418.5.1 RETURN OF CONFISCATED FIREARMS AND WEAPONS

(a) Whenever the handling officer has cause to believe that the future return of any confiscated weapon(s) might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Detective Division which shall be responsible for initiating a petition to the superior court for a hearing in accordance with Welfare and Institutions Code § 8102(b), to determine whether or not the weapon(s) will be returned.

(b) The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon(s) have been confiscated unless the Department makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Department shall send written notice to the individual informing him or her of the right to a hearing on the issue and that he or she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon(s).

(c) If no petition is initiated within the above period, the Department shall make the weapon(s) available for return in accordance with subsection (d) below. If the person does not confirm a desire for a hearing within the prescribed 30 days, the Department may file a petition for an order of default.

(d) Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice which conforms to the provisions of Penal Code § 33865.

(e) In no case in which a firearm or other deadly weapon is not retained as evidence shall the Department be required to retain such firearms or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law (Penal Code § 33875).

418.6 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for a 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

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Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

418.7 DOCUMENTATION

The officer shall complete an application for a 72-Hour detention for evaluation and treatment, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report.

The application shall include the circumstances for officer involvement; the probable cause to believe the person is, as a result of a mental health disorder, a danger to others or him/herself or gravely disabled; and all information used for the determination of probable cause (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05).

The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

418.7.1 ADVISEMENT

The officer taking a person into custody for evaluation shall advise the person of:

(a) The officer's name and agency.

(b) The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.

(c) The name of the facility to which the person is being taken.

(d) If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the officer must approve, and may make a telephone call or leave a note indicating where he/she is being taken. The officer should also ask if the person needs assistance turning off any appliance or water.

The advisement shall be given in a language the person understands. If the person cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

418.8 FIREARMS AND OTHER WEAPONS

Whenever a person is taken into custody for a 5150 commitment, the handling officers should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institutions Code § 8100. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

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Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A search warrant may also be needed before searching for or seizing weapons

The handling officers shall issue a receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Officers shall advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)) (see the Property Office Policy).

418.8.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS

Whenever the handling officer has cause to believe that the future return of any confiscated weapon might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Detective Division, which shall be responsible for initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon will be returned.

The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the Department makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Department shall send written notice to the individual informing him/her of the right to a hearing on the issue, that he/she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon.

418.9 TRAINING

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, 5150 commitments and crisis intervention.

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Cite and Release Policy

420.1 PURPOSE AND SCOPE

This policy provides guidance on when to release adults who are arrested for a criminal misdemeanor offense on a written notice to appear (citation) and when to hold for court or bail.

420.2 POLICY

It is the policy of the Newport Beach Police Department to release all persons arrested on misdemeanor or other qualifying charges on a citation with certain exceptions (Penal Code § 853.6).

If there is a reason for non-release, the Department's mission to protect the community will be the primary consideration when determining whether to release any individual in lieu of holding for court or bail.

420.2.1 CRIMINAL ACTIVITY/CITATIONS OUTSIDE NEWPORT BEACH

PHYSICAL ARREST

Officers should consider contacting the agency having primary jurisdiction before attempting an arrest. When a physical arrest is appropriate, as determined by law and departmental procedure, an officer may make an arrest for any violation of state law occurring outside the City. The officer should, under normal circumstances:

- Prior to booking, obtain booking approval from the NBPD Watch Commander or an NBPD supervisor
- Book the defendant in accordance with the practice of the law enforcement agency having jurisdiction

CITATION

When a sworn officer observes a violation occurring outside of Newport Beach that by law and departmental procedure qualifies as a citable offense, the officer may cite the violator on a Personal Service Citation subject to the following guidelines:

- The appearance location shall be changed to indicate the name and address of the municipal court having jurisdiction
- If this procedure is not permitted by the law enforcement agency having jurisdiction, the officer may instead file an application for complaint with the appropriate agency
- Officers shall not cite for violations of another jurisdiction's local ordinances.

420.2.2 PRIVATE PERSON'S ARREST

Whenever an officer handles an incident involving an arrest by a private person, the officer shall:

- Prior to accepting custody of the private person arrestee, make reasonable efforts to determine whether a criminal offense has occurred and whether the person to be arrested is the one who committed that offense

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- If the objective circumstances and evidence present reasonable cause to believe a criminal offense occurred and the person to be arrested is the one who committed that offense the officer shall:
    (a) Accept custody of the arrestee
    (b) Process the arrestee accordingly, i.e., citation, field release or booking
    (c) Require the arresting person complete an Order of Arrest Private Person Report [5.1.5] to include:
        (a) Name of the Defendant, day, date and charge of the arrest
        (b) Arresting person's signature on the line marked "Signature of Arresting Person."
    (d) Complete an Arrest Report detailing action by the officer
    (e) Complete a crime report

Where it appears from the objective circumstances and evidence, that there is no reasonable cause to believe a criminal offense has occurred or that the person to be arrested is the one that committed that offense, the officer shall:

- Carefully explain to the person wishing to make the private person arrest the legal requirement that acceptance of custody by the officer requires the presence of reasonable cause to arrest, as well as the facts and circumstances which indicate to the officer an absence of reasonable cause.
- Seek the consent and cooperation of the person wishing to make the arrest to have the matter handled by submission of a crime report for further investigation by a detective and/or evaluation of criminal charges by the District Attorney
- If the person insists on making the arrest, the officer shall refuse to accept custody of the arrestee
- Complete a crime report detailing all of the allegations, facts, circumstances and evidence bearing on the officer's determination to refuse to accept custody.

Officers should seek advice from a supervisor or the Watch Commander when there is any question in the mind of the officer as to how to proceed regarding a private person arrest.

420.3 RELEASE BY CITATION

Except in cases where a reason for non-release as described below exists, adults arrested for a misdemeanor offense, including a private person's arrest, shall be released from custody on a citation (Penal Code § 853.6).

The citing officer shall, at the time the defendant signs the notice to appear, call attention to the time and place for appearance and take any other steps they deem necessary to ensure that the defendant understands their written promise to appear.

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420.3.1 FIELD CITATIONS

In most cases an adult arrested for a misdemeanor offense may be released in the field on a citation in lieu of physical arrest when booking and fingerprinting is not practicable or immediately required provided the individual can be satisfactorily identified, there is no outstanding arrest warrant for the individual and none of the below described disqualifying circumstances are present (Penal Code § 853.6; Penal Code § 1270.1). In such cases the arresting officer should check the booking required box on the citation form to indicate that the person will be photographed and fingerprinted at a later time when ordered by the court.

When a booking photo or fingerprints are needed for the furtherance of any investigation, the person should be released on citation after booking instead of on a field citation.

420.3.2 RELEASE AFTER BOOKING

In some cases it may not be feasible or desirable to release a person in the field. The person should instead be released on citation after booking at the jail. All bookings shall be approved by the Watch Commander or the authorized designee.

420.3.3 TRAFFIC VIOLATIONS BY A TRANSIT DISTRICT OR SCHOOL BUS

Whenever an officer observes the driver of a transit district bus or school bus commit a traffic violation and enforcement action is warranted, the officer shall:

- Stop the vehicle at the nearest available parking space.
- Detain the violator and issue a personal service citation for the offense

VIOLATOR REFUSES TO SIGN CITATION

Whenever an officer has issued a citation to the driver of a Transit District or school bus, and the driver refuses to sign the citation, the officer shall:

- Release the violator
- Void the personal service citation
- Complete a Crime Report indicating the elements of the violation and the circumstances of the field release
- Submit the report to the Watch Commander for approval

420.4 NON-RELEASE

420.4.1 DISQUALIFYING OFFENSES

An adult arrested on any of the following disqualifying charges shall not be released on citation and shall be transported to the appropriate detention facility or held for court or bail after booking (Penal Code § 1270.1):

(a) Misdemeanor domestic battery (Penal Code § 243(e)(1))

(b) Felony domestic battery (Penal Code § 273.5)

(c) Serious or violent felonies (Penal Code § 1270.1(a)(1))

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(d) Felony intimidation of witnesses and victims (Penal Code § 136.1)

(e) Violation of a protective order and the arrested person has made threats, used violence, or has gone to the protected person's workplace or residence (Penal Code § 273.6)

(f) Stalking (Penal Code § 646.9)

(g) Misdemeanor violations of a protective order relating to domestic violence if there is a reasonable likelihood the offense will continue or the safety of the individuals or property would be endangered (Penal Code § 853.6)

420.4.2 REASONS FOR NON-RELEASE

A person arrested for a misdemeanor shall be released on a citation unless there is a reason for non-release. The Watch Commander may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the Department and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (Penal Code § 853.6(i)):

(a) The person arrested is so intoxicated that they could be a danger to themselves or to others. Release may occur as soon as this condition no longer exists.

(b) The person arrested requires medical examination or medical care or is otherwise unable to care for their own safety.

(c) The person is arrested for one or more of the offenses listed in Vehicle Code § 40302, Vehicle Code § 40303, and Vehicle Code § 40305.

(d) There are one or more outstanding arrest warrants for the person (see Misdemeanor Warrants elsewhere in this policy).

(e) The person could not provide satisfactory evidence of personal identification.

    (a) If a person released on citation does not have satisfactory identification in their possession, a right thumbprint or fingerprint should be obtained on the citation form.

(f) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by the immediate release of the person arrested.

(g) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.

(h) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.

(i) There is reason to believe that the person would not appear at the time and place specified in the notice to appear. The basis for this determination shall be specifically documented. Reasons may include:

    (a) Previous failure to appear is on record

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(b) The person lacks ties to the area, such as a residence, job, or family

(c) Unusual circumstances lead the officer responsible for the release of arrested persons to conclude that the suspect should be held for further investigation

(j) A previous conviction, citation, or arrest for misdemeanor or felony retail theft from a store in the previous six months.

(k) There is probable cause to believe that the person arrested is guilty of committing organized retail theft.

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking form. This form shall be submitted to the Watch Commander for approval and included with the case file in the Records Section.

420.5 MISDEMEANOR WARRANTS

An adult arrested on a misdemeanor warrant may be released, subject to Watch Commander approval, unless any of the following conditions exist:

(a) The misdemeanor cited in the warrant involves violence, a firearm, resisting arrest,or giving false information to a peace officer.

(b) The person arrested is a danger to themselves or others due to intoxication or being under the influence of drugs or narcotics.

(c) The person requires medical examination or medical care or was otherwise unable to care for their own safety.

(d) The person has other ineligible charges pending against themselves.

(e) 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.

(f) The person refuses to sign the notice to appear.

(g) The person cannot provide satisfactory evidence of personal identification.

(h) The warrant of arrest indicates that the person is not eligible to be released on a notice to appear.

Release under this section shall be done in accordance with the provisions of this policy.

420.6 JUVENILE CITATIONS

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

- Misdemeanor traffic violations of the Vehicle Code
- Violations of the Newport Beach Municipal Code

All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to the Detective Division for further action including diversion.

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420.7 REQUESTING CASE NUMBERS

Many cases involving a criminal citation release can be handled without requesting a case number. Traffic situations and local code violations can be documented on the reverse side of the records copy of the citation. Most Penal Code sections will require a case number to document the incident properly in a report. This section does not preclude an officer from requesting a case number if the officer feels the situation should be documented more thoroughly in a case report.

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Foreign Diplomatic and Consular Representatives

422.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Newport Beach Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

422.2 POLICY

The Newport Beach Police Department respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

422.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

(a) Notify a supervisor.

(b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.

(c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.

(d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.

(e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

422.4 ENFORCEMENT

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

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(a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.

(b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.

(c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.

1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.

(d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:

1. Diplomatic-level staff of missions to international organizations and recognized family members
2. Diplomatic agents and recognized family members
3. Members of administrative and technical staff of a diplomatic mission and recognized family members
4. Career consular officers, unless the person is the subject of a felony warrant

(e) The following persons may generally be detained and arrested:

1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
2. Support staff of missions to international organizations
3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
4. Honorary consular officers
5. Whenever an officer arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the officer shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the officer shall begin the notification process.

422.5 DOCUMENTATION

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

422.6 DIPLOMATIC IMMUNITY TABLE

Reference table on diplomatic immunity:

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Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members
Diplomatic Agent	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Member of Admin and Tech Staff	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Service Staff	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Career Consul Officer	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts. Yes otherwise (note (a))	No immunity or inviolability
Honorable Consul Officer	Yes	Yes	Yes	No for official acts Yes otherwise.	No for official acts Yes otherwise	No immunity or inviolability
Consulate Employees	Yes (note (a))	Yes	Yes	No for official acts Yes otherwise.	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Int'l Org Staff (note (b))	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts. Yes otherwise (note (c))	No immunity or inviolability
Diplomatic-Level Staff of Missions to Int'l Org	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Support Staff of Missions to Int'l Orgs	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

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(a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.

(b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.

(c) A small number of senior officers are entitled to be treated identically to diplomatic agents.

(d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

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Rapid Response and Deployment

424.1 PURPOSE AND SCOPE

Violence that is committed in schools, workplaces and other locations by individuals or a group of individuals who are determined to target and kill persons and to create mass casualties presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding officers in situations that call for rapid response and deployment.

424.2 POLICY

The Newport Beach Police Department will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those that are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the Department in protecting themselves or others from death or serious injury.

424.3 FIRST RESPONSE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding officers should consider reasonable options to reduce, prevent or eliminate the threat. Officers must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, officers should take immediate action, if reasonably practicable, while requesting additional assistance.

Officers should remain aware of the possibility that an incident may be part of a coordinated multi-location attack that may require some capacity to respond to other incidents at other locations.

When deciding on a course of action officers should consider:

(a) Whether to advance on or engage a suspect who is still a possible or perceived threat to others. Any advance or engagement should be based on information known or received at the time.

(b) Whether to wait for additional resources or personnel. This does not preclude an individual officer from taking immediate action.

(c) Whether individuals who are under imminent threat can be moved or evacuated with reasonable safety.

(d) Whether the suspect can be contained or denied access to victims.

(e) Whether the officers have the ability to effectively communicate with other personnel or resources.

(f) Whether planned tactics can be effectively deployed.

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(g) The availability of rifles, shotguns, shields, breaching tools, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

In a case of a barricaded suspect with no hostages and no immediate threat to others, officers should consider summoning and waiting for additional assistance (special tactics and/or hostage negotiation team response).

424.3.1 RESPONSE TO SCHOOL THREATS

Upon receiving a threat or perceived threat from a school official that involves grades 6 to 12, officers shall immediately investigate and conduct a threat assessment. The investigation shall include a review of the firearm registry of the California Department of Justice. A reasonable search of the school at issue shall be conducted when the search is justified by reasonable suspicion that it would produce evidence related to the threat or perceived threat (Education Code § 49394).

For purposes of this subsection a "threat" or "perceived threat" means any writing or action of a pupil that creates a reasonable suspicion that the pupil is preparing to commit a homicidal act related to school or a school activity. This may include possession, use, or depictions of firearms, ammunition, shootings, or targets in association with infliction of physical harm, destruction, or death in a social media post, journal, class note, or other media associated with the pupil. It may also include a warning by a parent, pupil, or other individual (Education Code § 49390).

424.4 CONSIDERATIONS

When dealing with a crisis situation members should:

(a) Assess the immediate situation and take reasonable steps to maintain operative control of the incident.

(b) Obtain, explore and analyze sources of intelligence and known information regarding the circumstances, location and suspect involved in the incident.

(c) Attempt to attain a tactical advantage over the suspect by reducing, preventing or eliminating any known or perceived threat.

(d) Attempt, if feasible and based upon the suspect’s actions and danger to others, a negotiated surrender of the suspect and release of the hostages.

424.5 PLANNING

The Patrol Division Commander should coordinate critical incident planning. Planning efforts should consider:

(a) Identification of likely critical incident target sites, such as schools, shopping centers, entertainment venues, and sporting event venues.

(b) Availability of building plans and venue schematics of likely critical incident target sites.

(c) Communications interoperability with other law enforcement and emergency service agencies.

(d) Training opportunities in critical incident target sites, including joint training with site occupants.

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(e) Evacuation routes in critical incident target sites.

(f) Patrol first-response training.

(g) Public communication protocols.

(h) Command structure using the incident command system, including unified command.

(i) Response coordination and resources of emergency medical and fire services.

(j) Equipment needs, including provision and maintenance of necessary tactical and medical equipment.

(k) Mutual aid agreements with other agencies.

(l) Coordination with private security providers in critical incident target sites.

(m) Post-incident recovery, including victim support and after-action review

424.6 TRAINING

The Training Manager should include rapid response to critical incidents in the training plan. This training should address:

(a) Orientation to likely critical incident target sites, such as schools, shopping centers, entertainment venues, and sporting event venues.

(b) Communications interoperability with other law enforcement and emergency service agencies.

(c) Patrol first-response training, including patrol rifle, shotgun, breaching tool, and control device training.

1. This should include the POST terrorism incident training required for officers assigned to field duties (Penal Code § 13519.12).

(d) First aid, including gunshot trauma.

(e) Reality-based scenario training (e.g., active shooter, disgruntled violent worker).

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Immigration Violations

428.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Newport Beach Police Department relating to immigration and interacting with federal immigration officials.

428.1.1 DEFINITIONS

The following definitions apply to this policy (Government Code § 7284.4):

Criminal immigration violation - Any federal criminal immigration violation that penalizes a person's presence in, entry, or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

Immigration enforcement - Any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, including any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in the United States.

Judicial warrant - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

428.2 POLICY

It is the policy of the Newport Beach Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

428.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or California constitutions.

428.4 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

428.4.1 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)

Members shall not use information transmitted through CLETS for immigration enforcement purposes except for criminal history information and only when consistent with the California Values Act (Government Code § 15160).

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Members shall not use the system to investigate immigration violations of 8 USC § 1325 (improper entry) if that violation is the only criminal history in an individual's record (Government Code § 15160).

428.4.2 CALIFORNIA DEPARTMENT OF MOTOR VEHICLES

Members shall not obtain, access, use, or otherwise disclose noncriminal history information maintained by the DMV for immigration enforcement (Vehicle Code § 1808.48).

428.5 DETENTIONS AND ARRESTS

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code § 7284.6).

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 USC § 1326(a) (unlawful reentry) that may be subject to an enhancement due to a previous conviction of an aggravated felony under 8 USC § 1326(b)(2), may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement (Government Code § 7284.6). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC § 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense (Government Code § 7284.6).

An officer shall not detain any individual, for any length of time, for any other criminal immigration violation of federal immigration laws (Government Code § 7284.6).

An officer should notify a supervisor as soon as practicable whenever an individual is arrested for violation of 8 USC § 1326(a).

428.5.1 SUPERVISOR RESPONSIBILITIES

When notified that an officer has arrested an individual for violation of 8 USC § 1326(a) or under the authority of a judicial warrant, the supervisor should determine whether it is appropriate to:

(a) Transfer the person to federal authorities.

(b) Transfer the person to jail.

428.6 FEDERAL REQUESTS FOR ASSISTANCE

Absent an urgent issue of officer safety or other emergency circumstances, requests by federal immigration officials for assistance from this department should be directed to a supervisor. The supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

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428.7 INFORMATION SHARING

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; Government Code § 7284.6):

(a) Sending information to, or requesting or receiving such information from federal immigration officials

(b) Maintaining such information in department records

(c) Exchanging such information with any other federal, state, or local government entity

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

428.7.1 IMMIGRATION DETAINERS

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 (Government Code § 7284.6).

Notification to a federal authority may be made prior to release of an individual who is the subject of a notification request only if the individual meets one of the following conditions (Government Code § 7282.5; Government Code § 7284.6):

(a) The individual has been arrested and had a judicial probable cause determination for a serious or violent felony identified in Penal Code § 667.5(c) or Penal Code § 1192.7(c).

(b) The individual has been arrested and had a judicial probable cause determination for a felony punishable by time in a state prison.

(c) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).

(d) The individual is a current registrant on the California Sex and Arson Registry.

(e) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

428.7.2 NOTICE TO INDIVIDUALS

Individuals in custody shall be given a copy of documentation received from U.S. Immigration and Customs Enforcement (ICE) regarding a hold, notification, or transfer request along with information as to whether the Newport Beach Police Department intends to comply with the request (Government Code § 7283.1).

If the Newport Beach Police Department provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

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428.7.3 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the Newport Beach Police Department shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he/she may decline to be interviewed or may choose to be interviewed only with his/her attorney present. The consent form must be available in the languages specified in Government Code § 7283.1.

428.7.4 TRANSFERS TO IMMIGRATION AUTHORITIES

Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist (Government Code § 7282.5; Government Code § 7284.6):

(a) Transfer is authorized by a judicial warrant or judicial probable cause determination.

(b) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).

(c) The individual is a current registrant on the California Sex and Arson Registry.

(d) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

428.7.5 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Detective Division supervisor shall ensure that data regarding the number of transfers of an individual to immigration authorities, as permitted by Government Code § 7284.6(a)(4), and the offense that allowed for the transfer is collected and provided to the Records Manager for required reporting to the DOJ (Government Code § 7284.6(c)(2)(see the Records Section Policy).

428.8 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Detective Division supervisor assigned to oversee the handling of any related case. The Detective Division supervisor should:

(a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.

(b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.

(c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.

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1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
2. Form I-918 Supplement B certification shall be completed if the victim qualifies under Penal Code § 679.10 (multiple serious offenses). The certification shall be completed and not refused for the specified reasons in Penal Code § 679.10(k)(3).
3. Form I-914 Supplement B declaration shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking). The declaration shall be completed and not refused for completion for the specified reasons in Penal Code § 679.11(j)(3).
4. Forward the completed Form I-918 Supplement B certification or completed Form I-914 declaration B to the victim, family member, or authorized representative (as defined in Penal Code § 679.10 and Penal Code § 679.11) without requiring the victim to provide government-issued identification (Penal Code § 679.10; Penal Code § 679.11)

(d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

1. If Form I-918 Supplement B is not certified, a written explanation of denial shall be provided to the victim or authorized representative. The written denial shall include specific details of any reasonable requests for cooperation and a detailed description of how the victim refused to cooperate (Penal Code § 679.10).

(e) Inform the victim liaison of any requests and their status.

428.8.1 TIME FRAMES FOR COMPLETION

Officers and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and the documents needed for indicating the individual is a victim for the T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Officers and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 30 days of a request from the victim, victim's family, or authorized representative related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within seven days of the first business day following the day the request was received.

428.8.2 REPORTING TO LEGISLATURE

The Detective Division supervisor or the authorized designee should ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

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428.8.3 POLICE REPORTS

Upon request, an officer or supervisor should provide a victim or authorized representative with a copy of the report filed by the victim within seven days of the request (Penal Code § 679.10).

428.9 TRAINING

The Training 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 violation has been committed.

(c) Prohibitions contained in the California Values Act (Government Code § 7284 et seq.).

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Emergency Utility Service

430.1 PURPOSE AND SCOPE

The City has personnel available to handle emergency calls 24 hours per day. Calls for service during non-business hours are frequently directed to the Police Department. Requests for such service received by this department should be handled in the following manner.

430.1.1 BROKEN WATER LINES

The City's responsibility ends at the water meter; any break or malfunction in the water system from the water meter to the citizen's residence or business is the customer's responsibility. The City can only turn off the valve at the meter. The citizen can normally accomplish this.

If a break occurs on the City side of the meter, emergency personnel should be called as soon as practical by Dispatch.

430.1.2 ELECTRICAL LINES

The City does not maintain electrical lines to street light poles. When a power line poses a hazard, an officer should be dispatched to protect against personal injury or property damage that might be caused by power lines. The Electric Company or the City should be promptly notified, as appropriate.

430.1.3 RESERVOIRS, PUMPS, WELLS, ETC.

The City maintains the reservoirs and public water equipment, as well as several underpass and other street drainage pumps. In the event of flooding or equipment malfunctions, emergency personnel should be contacted as soon as possible.

430.1.4 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies is maintained by Dispatch.

430.2 TRAFFIC SIGNAL MAINTENANCE

The City of Newport Beach contracts with a private maintenance company to furnish maintenance for all traffic signals within the City, other than those maintained by the State of California.

430.2.1 OFFICER'S RESPONSIBILITY

Upon observing a damaged or malfunctioning signal, the officer will advise the Dispatch of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency.

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Patrol Rifles

432.1 PURPOSE AND SCOPE

In order to more effectively and accurately address the increasing level of fire power and body armor utilized by criminal suspects, the Newport Beach Police Department will make patrol rifles available to qualified patrol officers as an additional and more immediate tactical resource. Officers will be given the option to purchase, at their own expense, their own patrol rifle within Department guidelines for deployment during their duty shift.

432.2 PATROL RIFLE DEFINITION/AGREEMENT FOR USE OF PERSONAL PATROL RIFLE

A patrol rifle is an authorized weapon which is owned by the Department, or personally owned by an officer, and which is made available to properly trained and qualified officers as a supplemental resource to their duty handgun or shotgun.

Officers wishing to carry their personally owned rifle must be off probation.

Qualified officers wishing to purchase a patrol rifle must submit a memorandum to the Chief of Police requesting to purchase the rifle for duty purposes. A rifle may be purchased when an approved law enforcement purchase letter has been issued by the Chief of Police. If a qualified officer owns a patrol rifle that meets the requirements specified in Policy Section 432.3 he or she may submit a memorandum to the Chief of Police requesting to use of that rifle for duty use.

Upon approval, and pursuant to state law, officers will ensure their patrol rifles are registered with the State of California Department of Justice. Officers shall submit proof of registration, and a completed and signed "Agreement for Use of Personal Patrol Rifle" (NBPD Form 7.7.9) to the Department's Rangemaster/Armorer prior to carrying the patrol rifle in the field. No personally owned rifle shall be carried or deployed without first being inspected and approved by the Rangemaster/Armorer.

The "Agreement for Use of Personal Patrol Rifle" outlines the policies and procedures in using their own patrol rifle for on-duty use. The "Agreement for Use of Personal Patrol Rifle" form shall be retained in the employee's training and personnel files.

432.3 SPECIFICATIONS

Only weapons and ammunition that meet the following agency authorized specifications, approved by the Chief of Police, may be used by officers in their law enforcement responsibilities. The patrol rifles authorized by the Department, or that may be purchased by officers for employment related deployment, are the following rifles chambered in 5.56mm NATO or .223 Remington caliber:

Colt AR15 or M4 style variant,

Bushmaster AR15 variant,

Armalite AR15 variant, or

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An AR15 variant of reputable manufacture, such as Smith and Wesson, Sig Sauer, Sturm Ruger, H&K, and/or those approved by the Department's Rangemaster/Armorer.

All authorized, personally owned patrol rifles, will have a 16-inch barrel and a semi-automatic action only. Any variation in barrel length must be approved in writing by the Rangemaster/ Armorer, and the Chief of Police or designee, prior to patrol deployment.

Only Department issued ammunition may be used while on-duty. The Rangemaster/Armorer will supply duty ammunition to each officer approved to carry their personally owned patrol rifle.

Personally owned rifles shall be inspected by the Department's Rangemaster/Armorer during annual rifle qualification/training days. Any modifications to a personally owned rifle must be approved by the Department's Rangemaster/Armorer.

Officers who purchase and carry their own patrol rifle must also purchase the minimal following equipment:

(a) Carry case (either hard or soft)

(b) A minimum of 2 Department approved duty magazines; and

(c) A Department approved sling

(d) A mounted weapon light approved for use by the Rangemaster/Armorer.

In addition to the required items needed, officers may add additional accessories to their patrol rifle. The approved accessories are:

(a) Additional optics approved by the Rangemaster/Armorer

(b) Stock , A collapsible or fixed stock

(c) Back up iron sights (required if optics are installed on a flat-top upper receiver) approved by the Department's Rangemaster/Armorer.

(d) Forward grips, extended charging handles, magazine releases or other ergonomic devices that improve the officer's weapon handling and shooting accuracy. Each device must be approved by the Rangemaster.

These accessories shall be installed by the Department's Rangemaster/Armorer. In respect to optics and sights for the personal patrol rifle, under the supervision of the Department's Rangemaster/Armorer officers shall sight their own optics and/or sights in before going in-service.

The Department's Rangemaster/Armorer will note on the patrol rifle accessory form what accessories have been installed and approved on a specific personally owned patrol rifle. This form will be maintained by the Department's Rangemaster/Armorer.

All accessorories and/or modifications to personally owned patrol rifles will be at the officer's own expense.

The following types of weapons are prohibited for use as a patrol rifle:

(a) AR-15 style pistols - where an AR-15 style receiver has been fitted with a short barrel and no stock exists over the buffering tube.

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(b) Rifles with fully-automatic or multi-round burst capable receivers. Nothing in this section shall prohibit members of the Crisis Response Unit from utilizing these types of weapons.

(c) Any rifle that is not an AR-15 style platform.

All Patrol rifles and accessories shall retain the factory matte black finish. Rifles in olive drab, desert tan or other military style colors may not be carried for uniformed duty use. Patrol rifles shall not have decorations, engravings or other adornments, such as skulls, notches or other markings that would be viewed negatively by the public.

432.4 RIFLE MAINTENANCE

(a) Each patrol officer will be responsible for the care, cleaning, storage, and security of their personally owned patrol rifle.

(b) Each patrol officer shall be responsible for promptly reporting any damage or malfunction of a Department patrol rifle or personally owned patrol rifle to the Department's Rangemaster/Armorer or the Watch Commander.

(c) Each patrol rifle shall be subject to inspection by a supervisor or the Department's Rangemaster/Armorer at any time.

(d) No modification shall be made to any patrol rifle without prior authorization from the Department's Rangemaster/Armorer.

(e) The Department's Rangemaster/Armorer shall inspect and service each patrol rifle prior to issuance and thereafter, annually. This includes both Department owned and personally owned rifles.

(f) Any patrol rifle found to be unserviceable shall be removed from service. The rifle shall be clearly labeled as "out of service" and details regarding the weapon's condition shall be included on the label.

432.5 TRAINING

Officers shall not carry or utilize the patrol rifle unless they have successfully completed POST certified training, or an approved equivalent, as mandated under POST Commission Regulation 1081 and Penal Code Section 33220(b). This training shall consist of an initial 16-hour patrol rifle course with a POST certifiedtactical rifle instructor. Officers shall thereafter be required to successfully complete annual training conducted by a POST certifiedtactical rifle instructor. Officers carrying personal rifles should complete all training required with their personally owned rifle as well as the standard Department issued rifles.

Any officer who fails to qualify or who fails to successfully complete a department training session within a calendar year will no longer be authorized to use the patrol rifle,until any needed remedial training has been completed.

432.6 DEPLOYMENT OF THE PATROL RIFLE

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

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(a) Situations where the officer reasonably anticipates an armed encounter.

(b) When an officer is faced with a situation that may require the delivery of accurate and effective fire at long range.

(c) Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower.

(d) When an officer reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage.

(e) When an officer reasonably believes that a suspect may be wearing body armor.

(f) When authorized or requested by a supervisor.

(g) When needed to euthanize an animal.

432.7 DISCHARGE OF THE PATROL RIFLE

The discharge of the patrol rifle shall be governed by the Department's Use of Force Policy, Policy Manual § 300.

432.8 PATROL READY

Any qualified officer carrying a patrol rifle in the field shall maintain the weapon in a patrol ready condition until deployed. A rifle is considered in a patrol ready condition when it has been inspected by the assigned officer, the chamber is empty and a loaded magazine is inserted into the magazine well.

432.9 PATROL RIFLE STORAGE

The personally owned patrol rifle shall be kept inside a case in the locked patrol vehicle's trunk or back hatch for deployment when on-duty. Any Department issued AR-15 assigned to a unit shall remain in the passenger compartment rifle rack.

Officers shall store their personally owned patrol rifle in a carry case (hard or soft) in their assigned locker (locker in either the men's or women's locker room). Officers shall not store their personally owned patrol rifles in personally owned vehicles.

432.10 PERSONALLY OWNED PATROL RIFLE - OFF DUTY USE

Off-duty officers may only use their personally owned patrol rifles at authorized shooting areas, ranges, and/or shooting competition events.

432.11 PERSONALLY OWNED PATROL RIFLE - FAILURE TO COMPLY

The failure to comply with the policies set forth in this section, or the "Agreement for Use of Personal Patrol Rifle," may result in therevocation of the officer's authorization to use their personally owned patrol rifle for duty use, and may result in disciplinary action.

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Aircraft Accidents

434.1 PURPOSE AND SCOPE

The purpose of this policy is to provide department members with guidelines for handling aircraft accidents.

This policy does not supersede, and is supplementary to, applicable portions of the Crime and Disaster Scene Integrity, Emergency Management Plan and Hazardous Material Response policies.

434.1.1 DEFINITIONS

Definitions related to this policy include:

Aircraft - Any fixed wing aircraft, rotorcraft, balloon, blimp/dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

434.2 POLICY

It is the policy of the Newport Beach Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

434.3 ARRIVAL AT SCENE

Officers or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

(a) Protect persons and property.

(b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or rescue the injured.

(c) Preserve ground scars and marks made by the aircraft.

(d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.

(e) Maintain a record of persons who enter the accident site.

(f) Consider implementation of an Incident Command System (ICS).

434.4 LOW FLYING AIRCRAFT VIOLATIONS

To constitute a violation of Federal Aviation Administration regulations all of the following must be present. The aircraft must be:

(a) Fixed wing; and

(b) Flown less than 1000' above the highest obstacle within a 2000' radius of the aircraft's position; and

(c) Flown over a city town or open-air assembly of persons

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An officer investigating a complaint of a low flying aircraft shall assist all witnesses in completing the FAA "Statement of Witness" form.

434.5 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

434.6 NOTIFICATIONS

When an aircraft accident is reported to this department, the responding supervisor shall ensure notification is or has been made to NTSB, the Federal Aviation Administration (FAA), and when applicable, the appropriate branch of the military.

Supervisors shall ensure other notifications are made once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. When an aircraft accident has occurred, it is generally necessary to notify the following:

(a) Fire department

(b) Appropriate airport tower

(c) Emergency medical services (EMS)

434.7 CONTROLLING ACCESS AND SCENE AUTHORITY

Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

(a) FAA.

(b) Fire department, EMS or other assisting law enforcement agencies.

(c) Coroner.

(d) Air Carrier/Operators investigative teams with NTSB approval.

(e) Appropriate branch of the military, when applicable.

(f) Other emergency services agencies (e.g., hazardous materials teams, biohazard decontamination teams, fuel recovery specialists, explosive ordnance disposal specialists).

The NTSB has primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft accident, the appropriate branch of the military will have primary investigation responsibility.

After the NTSB or military representative arrives on-scene, the efforts of this department will shift to a support role for those agencies.

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If NTSB or a military representative determines that an aircraft or accident does not qualify under its jurisdiction, the on-scene department supervisor should ensure the accident is still appropriately investigated and documented.

434.8 DANGEROUS MATERIALS

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

(a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.

(b) Pressure vessels, compressed gas bottles, accumulators and tires.

(c) Fluids, batteries, flares and igniters.

(d) Evacuation chutes, ballistic parachute systems and composite materials.

434.9 DOCUMENTATION

All aircraft accidents occurring within the City of Newport Beach shall be documented. At a minimum the documentation should include the date, time and location of the incident; any witness statements, if taken; the names of Department acronym: members deployed to assist; other City resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

434.9.1 WRECKAGE

When reasonably safe, members should:

(a) Obtain the aircraft registration number (N number) and note the type of aircraft.

(b) Attempt to ascertain the number of casualties.

(c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.

1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).

(d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.

(e) Acquire copies of any recordings from security cameras that may have captured the incident.

434.9.2 WITNESSES

Members tasked with contacting witnesses should obtain:

(a) The location of the witness at the time of his/her observation relative to the accident site.

(b) A detailed description of what was observed or heard.

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(c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.

(d) The names of all persons reporting the accident, even if not yet interviewed.

(e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

434.10 MEDIA RELATIONS

The Press Information Officer (PIO) should coordinate a response to the media, including access issues, road closures, detours and any safety information that is pertinent to the surrounding community. Any release of information regarding details of the accident itself should be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims' names. The PIO should coordinate with other involved entities before the release of information.

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Field Training Officer Program

436.1 PURPOSE AND SCOPE

The Field Training Officer Program is intended to provide a standardized program to facilitate the officer's transition from the academic setting to the actual performance of general law enforcement duties of the Newport Beach Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training Officer Program that is designed to prepare the new officer to perform in a patrol assignment, and possessing all skills needed to operate in a safe, productive, and professional manner.

436.2 FIELD TRAINING OFFICER - SELECTION AND TRAINING

The Field Training Officer (FTO) is an experienced officer trained in the art of supervising, training, and evaluating entry level and lateral police officers in the application of their previously acquired knowledge and skills.

436.2.1 SELECTION PROCESS

FTOs will be selected based on the following requirements:

(a) Desire to be an FTO

(b) Minimum of four years of patrol experience

(c) Demonstrated ability as a positive role model

(d) Participate and pass an internal oral interview selection process

(e) Evaluation by supervisors and current FTOs

(f) Possess a POST Basic certificate

436.2.2 TRAINING

An officer selected as a Field Training Officer shall successfully complete a POST certified (40-hour) Field Training Officer's Course prior to being assigned as an FTO.

All FTOs must complete a 24-hour Field Training Officer update course every three years while assigned to the position of FTO (11 CCR 1004).

All FTOs must meet any training mandate regarding crisis intervention behavioral health training pursuant to Penal Code § 13515.28.

436.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The FTO Program supervisor should be selected from the rank of sergeant or above by the Patrol Division Commander.

The responsibilities of the FTO Program supervisor include the following:

(a) Assignment of trainees to FTOs

(b) Conduct FTO meetings

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(c) Maintain and ensure FTO/trainee performance evaluations are completed

(d) Maintain, update, and issue the Field Training Manual to each trainee

(e) Monitor individual FTO performance

(f) Monitor overall FTO Program

(g) Maintain liaison with FTO coordinators of other agencies

(h) Maintain liaison with academy staff on recruit performance during the academy

(i) Develop ongoing training for FTOs

The FTO Program supervisor will be required to successfully complete a POST-approved Field Training Administrator's Course within one year of appointment to this position (11 CCR 1004(c)).

436.4 TRAINEE DEFINED

Any entry level or lateral police officer newly appointed to the Newport Beach Police Department who has successfully completed a POST approved Basic Academy.

436.5 REQUIRED TRAINING

Entry level officers shall be required to successfully complete a POST-approved Field Training Program, consisting of a minimum of 10 weeks (Penal Code § 13515.295; 11 CCR 1004; 11 CCR 1005).

The training period for a lateral officer may be modified depending on the trainee's demonstrated performance and level of experience. A lateral officer may be exempt from the Field Training Program requirement if the officer qualifies for an exemption as provided in 11 CCR 1005(a)(B).

To the extent practicable, entry level and lateral officers should be assigned to a variety of Field Training Officers, shifts, and geographical areas during their Field Training Program.

436.6 EVALUATIONS

Evaluations are an important component of the training process and shall be completed as outlined below.

436.6.1 FIELD TRAINING OFFICER

The FTO will be responsible for the following:

(a) Complete and submit a written evaluation on the performance of their assigned trainee to the FTO Coordinator on a daily basis.

(b) Review the Daily Trainee Performance Evaluations with the trainee each day.

(c) Complete a detailed end-of-phase performance evaluation on their assigned trainee at the end of each phase of training.

(d) Sign off all completed topics contained in the Field Training Manual, noting the method(s) of learning and evaluating the performance of their assigned trainee.

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436.6.2 IMMEDIATE SUPERVISOR
The immediate supervisor shall review and approve the Daily Trainee Performance Evaluations and forward them to the Field Training Administrator.

436.6.3 FIELD TRAINING ADMINISTRATOR
The Field Training Administrator will review and approve the Daily Trainee Performance Evaluations submitted by the FTO through his/her immediate supervisor.

436.6.4 TRAINEE
At the completion of the Field Training Program, the trainee shall submit a confidential performance evaluation on each of their FTOs and on the Field Training Program.

436.7 DOCUMENTATION
All documentation of the Field Training Program will be retained in the officer's training files and will consist of the following:

(a) Daily Trainee Performance Evaluations

(b) End-of-phase evaluations

(c) A Certificate of Completion certifying that the trainee has successfully completed the required number of hours of field training

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Obtaining Air Support

438.1 PURPOSE AND SCOPE

The use of a police helicopter can be invaluable in certain situations. This policy specifies potential situations where the use of a helicopter may be requested and the responsibilities for making a request.

438.2 REQUEST FOR HELICOPTER ASSISTANCE

If a supervisor or officer in charge of an incident determines that the use of a helicopter would be beneficial, a request to obtain helicopter assistance may be made.

438.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval of the request for a helicopter, the Watch Commander, or his/her designee, will call the closest agency having helicopter support available. The Watch Commander on duty will apprise that agency of the specific details of the incident prompting the request.

438.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Police helicopters may be requested under any of the following conditions:

(a) When the helicopter is activated under existing mutual aid agreements

(b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the helicopters may reduce such hazard

(c) When the use of the helicopters will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community

(d) When a helicopter is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard

(e) Vehicle pursuits

While it is recognized that the availability of helicopter support will generally provide valuable assistance to ground personnel, the presence of a helicopter will rarely replace the need for officers on the ground.

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Contacts and Temporary Detentions

440.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

440.1.1 DEFINITIONS

Definitions related to this policy include:

Consensual encounter - When an officer contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

Field interview - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the officer's suspicions.

Field photographs - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-down search - A type of search used by officers in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

Reasonable suspicion - When, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

Temporary detention - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person’s freedom of movement.

440.2 POLICY

The Newport Beach Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete a field interview (FI), pat-down search, or field photograph shall be left to the officer based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

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440.3 FIELD INTERVIEWS

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Newport Beach Police Department to strengthen community involvement, community awareness, and problem identification.

440.3.1 INITIATING A FIELD INTERVIEW

When initiating the stop, the officer should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

(a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act

(b) Actions suggesting that he/she is engaged in a criminal activity

(c) Presence in an area at an inappropriate hour of the day or night

(d) Presence in a particular area is suspicious

(e) Carrying of suspicious objects or items

(f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon

(g) Location in proximate time and place to an alleged crime

(h) Physical description or clothing worn that matches a suspect in a recent crime

(i) Prior criminal record or involvement in criminal activity as known by the officer

440.4 PAT-DOWN SEARCHES

Once a valid stop has been made, and consistent with the officer's training and experience, an officer may pat a suspect's outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

(a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.

(b) Where more than one suspect must be handled by a single officer.

(c) The hour of the day and the location or neighborhood where the stop takes place.

(d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.

(e) The actions and demeanor of the suspect.

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(f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.

Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officershould be positioned to ensure safety and should not be involved in the search.

440.5 FIELD PHOTOGRAPHS

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the officer shall carefully consider, among other things, the factors listed below.

440.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent.

440.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct.

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

440.5.3 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and submitted to the Watch Commander with either an associated FI card or other documentation explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an investigation where a case number has been issued, the Watch Commander should review and forward the photograph to one of the following locations:

(a) If the photograph and associated FI or documentation is relevant to criminal organization/enterprise enforcement, the Watch Commander will forward the photograph and documents to the designated criminal intelligence system supervisor. The supervisor will ensure the photograph and supporting documents are retained as prescribed in the Criminal Organizations Policy.

(b) Photographs that do not qualify for retention in a criminal intelligence system or temporary information file shall be forwarded to the Records Section.

When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part

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of the case file. All other photographs shall be retained in accordance with the established records retention schedule.

440.5.4 SUPERVISOR RESPONSIBILITIES

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken.

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

440.6 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

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

1. When feasible, a recorded statement should be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.
2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.

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

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

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Criminal Organizations

442.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Newport Beach Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

442.1.1 DEFINITIONS

Definitions related to this policy include:

Criminal intelligence system - Any record system that receives, stores, exchanges or disseminates information that has been evaluated and determined to be relevant to the identification of a criminal organization or enterprise, its members or affiliates. This does not include temporary information files.

442.2 POLICY

The Newport Beach Police Department recognizes that certain criminal activities, including but not limited to gang crimes and drug trafficking, often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

It is the policy of this department to collect and share relevant information while respecting the privacy and legal rights of the public.

442.3 CRIMINAL INTELLIGENCE SYSTEMS

No department member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for department use.

Any criminal intelligence system approved for department use should meet or exceed the standards of 28 CFR 23.20.

A designated supervisor will be responsible for maintaining each criminal intelligence system that has been approved for department use. The supervisor or the authorized designee should ensure the following:

(a) Members using any such system are appropriately selected and trained.

(b) Use of every criminal intelligence system is appropriately reviewed and audited.

(c) Any system security issues are reasonably addressed.

442.3.1 SYSTEM ENTRIES

It is the designated supervisor’s responsibility to approve the entry of any information from a report, field interview (FI), photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this department, such as open or public source documents or documents that are on file at another agency, the designated supervisor should ensure copies of those documents are retained by the Records Section. Any supporting documentation for an entry shall be retained by the Records Section in accordance

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with the established records retention schedule and for at least as long as the entry is maintained in the system.

The designated supervisor should ensure that any documents retained by the Records Section are appropriately marked as intelligence information. The Records Manager may not purge such documents without the approval of the designated supervisor.

442.3.2 GANG DATABASES

The Chief of Police may approve participation by the gang unit in a shared criminal gang intelligence database, such as CALGANG®. Members must obtain the requisite training before accessing any such database (11 CCR 751.6).

It is the gang unit supervisor's responsibility to determine whether any report or FI contains information that would qualify for entry into the database. Prior to designating any person as a suspected gang member, associate, or affiliate in a shared gang database; or submitting a document to the Attorney General's office for the purpose of designating a person in a shared gang database; or otherwise identifying the person in a shared gang database, the gang unit supervisor shall provide written notice to the person and, if the person is under the age of 18, to his/her parent or guardian of the designation and the basis for the designation, unless providing that notification would compromise an active criminal investigation or compromise the health or safety of a minor. Notice shall also describe the process to contest the designation (Penal Code § 186.34).

The person, an attorney working on his/her behalf, or his/her parent or guardian (if the person is under 18 years of age) may request, in writing, information as to whether the person is designated as a suspected gang member, associate, or affiliate in a shared gang database accessible by the Department, the basis for that designation, and the name of the agency that made the designation. The Department shall respond to a valid request in writing within 30 days, and shall provide the information requested unless doing so would compromise an active investigation or compromise the health and safety of the person if he/she is under 18 years of age (Penal Code § 186.34).

The person, or his/her parent or guardian if the person is under 18 years of age, may contest the designation by submitting written documentation, which shall be reviewed by the gang unit supervisor. If it is determined that the person is not a suspected gang member, associate, or affiliate, the person shall be removed from the database. The person and the parent or guardian shall be provided written verification of the department's decision within 30 days of receipt of the written documentation contesting the designation and shall include the reason for a denial when applicable (Penal Code § 186.34).

The gang unit supervisor should forward reports or FIs to the Records Section after appropriate database entries are made. The supervisor should clearly mark the report/FI as gang intelligence information.

It is the responsibility of the Records Section supervisor to retain reports and FIs in compliance with the database rules and any applicable end user agreement.

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Records contained in a shared gang database shall not be disclosed for employment or military screening purposes, and shall not be disclosed for the purpose of enforcing federal immigration law unless required by state or federal statute or regulation (Penal Code § 186.36).

442.4 TEMPORARY INFORMATION FILE

No member may create or keep files on individuals that are separate from the approved criminal intelligence system. However, members may maintain temporary information that is necessary to actively investigate whether a person or group qualifies for entry into the department-approved criminal intelligence system only as provided in this section. Once information qualifies for inclusion, it should be submitted to the supervisor responsible for consideration of criminal intelligence system entries.

442.4.1 FILE CONTENTS

A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

(a) Must only be included upon documented authorization of the responsible department supervisor.

(b) Should not be originals that would ordinarily be retained by the Records Section or Property Office, but should be copies of, or references to, retained documents such as copies of reports, FI forms, Dispatch records or booking forms.

(c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.

(d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

442.4.2 FILE REVIEW AND PURGING

The contents of a temporary information file shall not be retained longer than one year. At the end of one year, the contents must be purged.

The designated supervisor shall periodically review the temporary information files to verify that the contents meet the criteria for retention. Validation and purging of files is the responsibility of the supervisor.

442.5 INFORMATION RECOGNITION

Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

(a) Gang indicia associated with a person or residence.

(b) Information related to a drug-trafficking operation.

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(c) Vandalism indicating an animus for a particular group.

(d) Information related to an illegal gambling operation.

Department supervisors who utilize an authorized criminal intelligence system should work with the Training Manager to train members to identify information that may be particularly relevant for inclusion.

442.6 RELEASE OF INFORMATION

Department members shall comply with the rules of an authorized criminal intelligence system regarding inquiries and release of information.

Information from a temporary information file may only be furnished to department members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy.

When an inquiry is made by the parent or guardian of a juvenile as to whether that juvenile's name is in a temporary information file, such information should be provided by the supervisor responsible for the temporary information file, unless there is good cause to believe that the release of such information might jeopardize an ongoing criminal investigation.

442.7 CRIMINAL STREET GANGS

The Detective Division supervisor should ensure that there are an appropriate number of department members who can:

(a) Testify as experts on matters related to criminal street gangs, and maintain an above average familiarity with:

1. Any organization, associate or group of three or more persons that meets the definition of a criminal street gang under Penal Code § 186.22(f).
2. Identification of a person as a criminal street gang member and criminal street gang-related crimes.
3. The California Street Terrorism Enforcement and Prevention Act (Penal Code § 186.21 et seq.), associated crimes and what defines a criminal street gang (Penal Code § 186.22).

(b) Coordinate with other agencies in the region regarding criminal street gang-related crimes and information.

(c) Train other members to identify gang indicia and investigate criminal street gang-related crimes.

442.8 TRAINING

The Training Manager should provide training on best practices in the use of each authorized criminal intelligence system to those tasked with investigating criminal organizations and enterprises. Training should include:

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(a) The protection of civil liberties.

(b) Participation in a multiagency criminal intelligence system.

(c) Submission of information into a multiagency criminal intelligence system or the receipt of information from such a system, including any governing federal and state rules and statutes.

(d) The type of information appropriate for entry into a criminal intelligence system or temporary information file.

(e) The review and purging of temporary information files.

442.8.1 SHARED GANG DATABASE TRAINING

The Training Manager should ensure that members who are authorized users of a shared gang database receive the required training from the California Department of Justice (DOJ) or an instructor certified by the DOJ that includes comprehensive and standardized training on the use of shared gang databases, and any other associated training required by the Department (Penal Code § 186.36; 11 CCR 751.6).

442.9 CONFISCATION OF FIREARMS: STREET GANGS

PURPOSE: To enable law enforcement to confiscate from street gangs any: firearms, ammunition which may be used with the firearm, or deadly or dangerous weapons for the purpose of committing any:

- 186.22(c) PC offense
- Burglary
- Rape

442.9.1 DECLARING NUISANCE/DISPOSAL

After the firearm, ammunition or weapon has been confiscated and the investigating officer believes that returning the item(s) would likely endanger the safety of others or be used in criminal street gang activity, the following steps should be taken to have it declared a nuisance and disposed of:

- Assigned detective shall contact the Executive Officer for initiating the nuisance declaration
- Executive Officer will contact the City Attorney to have the owner notified by letter and schedule any necessary court hearings. The Executive Officer will notify the assigned detective of the hearing results.
- Assigned detective shall include the hearing results in a detective follow-up.
- If the weapon is declared a nuisance, it shall be disposed of per 12028 PC.

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Watch Commanders

444.1 PURPOSE AND SCOPE

Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with departmental policies, procedures, practices, functions and objectives. To accomplish this goal, a Lieutenant heads each watch.

444.2 DESIGNATION AS ACTING WATCH COMMANDER

When a Lieutenant is unavailable for duty as Watch Commander, in most instances the senior qualified sergeant shall be designated as acting Watch Commander. This policy does not preclude designating a less senior sergeant as an acting Watch Commander when operational needs require or training permits.

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Mobile Audio/Video, Body Worn Cameras and Other Video Systems

446.1 PURPOSE AND SCOPE

The Newport Beach Police Department has equipped vehicles with Mobile Audio/Video (MAV) recording systems and provided Body Worn Cameras (BWCs) for use by sworn and animal control personnel while on duty, to provide records of events and assist employees in the performance of their duties. The Department has also equipped designated interview rooms with audio/video recording capability.

446.2 POLICY

It is the policy of the Newport Beach Police Department to use MAV/BWC technology to fulfill the Department's public safety mission and to support and enhance the Department's values of transparency, accountability and accuracy. All interpretations of this policy should be construed narrowly and in the furtherance of these values. While the Department cannot anticipate and address all possible scenarios involving MAV/BWC use, the stated intent of this policy is to ensure all investigations, searches and contacts with the public involving police action are recorded. Failure to comply with this policy may be basis for discipline.

446.3 EMPLOYEE RESPONSIBILITIES

Employees should only utilize the MAV/BWC or interview room recording devices after receiving training in the use and operation of each specific system. Training should include review of this policy. The Training Sergeant shall ensure training is provided to Department personnel and retain records of any MAV/BWC training provided.

At the start of each shift, employees shall log on to the MAV/BWC system and test the MAV/BWC system's operation and ensure it is recording both audio and video. If the system or any of its components are malfunctioning, the employee shall take the equipment out of service. For BWC issues, employees will obtain a spare BWC from the Watch Commander and leave their BWC unit for service. Employees will enter vehicle MAV issues into the vehicle repair system. A field supervisor may keep a vehicle with an inoperable MAV in service if necessary.

446.3.1 BWC PLACEMENT

Uniformed personnel shall wear the BWC so that the camera lens is forward-facing at the height of the chest pocket buttons of the uniform or exterior vest, or higher. The BWC shall be unobstructed by clothing or other equipment. Employees are authorized to use a BWC mount that fits entirely on or inside the uniform or vest chest pocket, even if the lens does not reach the height of the chest pocket buttons. SWAT officers or plain clothes personnel wearing tactical vests shall adhere to the same standard of placement as uniformed personnel. Plain clothes personnel conducting routine, non-enforcement, follow-up investigations/interviews are permitted to wear the BWC on their belt in a forward-facing manner.

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446.3.2 MANDATORY UPLOADING
All BWC recordings and data shall be uploaded by the end of the employee's shift unless otherwise authorized by a supervisor.Motor officers and canine officers shall, at minimum, upload their BWC footage once per on-duty work shift.

446.4 VIDEO TECHNICIANS
The Support Services Deputy Director shall designate Department personnel to perform Video Technician duties. Video Technicians will maintain all MAV/BWC and other video records.

446.5 ACTIVATION OF THE MAV/BWC
Employees shall activate the MAV/BWC in accordance with the criteria below:

(a) Personnel shall use their MAV/BWC to record all dispatched calls for service, unless it is clear there will not be any contact with members of the public.

(b) Personnel shall activate the MAV/BWC during all field contacts initiated from the police vehicle, contacts initiated away from the police vehicle, or other police activities, including, but not limited to:

1. Any vehicle stops, bicycle stops or pedestrian contacts,

2. Investigative interviews of involved persons in criminal investigations,

3. Conducting searches of persons, property, buildings, vehicles, open spaces, including during the service of search warrants, probation searches, and parole searches

4. Searching for and recovering evidence, including blood draws

5. Use of force or other incidents involving an animal

6. Other investigative or law enforcement activities where, in the employee's judgment, a video recording would assist in the investigation or prosecution of a crime or when a recording of an encounter would assist in documenting the incident for later investigation or review.

(c) Personnel shall activate the MAV/BWC (or continue recording an event) when transporting subjects, whether in-custody arrestees or community members.

(d) Personnel shall activate the MAV/BWC (or continue recording an event) even when the employee is in an area that is already subject to audio/video recording, including but not limited to areas such as the NBPD Jail, NBPD Front Lobby, and other areas of the police facility in all circumstances detailed by this policy.

(e) Personnel shall activate the MAV/BWC during any other police action conducted in the scope of the employees' duties where a member of the public is present.

1. There is no requirement for employees to activate their MAV/BWC during casual or social contacts, including such contacts during the employee's meal

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break, during public relations events (e.g. during a presentation to a community group), or during brief encounters for greetings or directions.

(f) Supervisors and managers shall use their BWC when interviewing members of the public who are lodging a citizen complaint against any member of the Department.

(g) SWAT officers shall activate the BWC once they have deployed to a position where police action or public contact may occur, including scouting missions and perimeter positions.

(h) The MAV/BWC shall remain activated until:

1. The incident, contact or activity has reached its conclusion or the employee has moved to a position where the employee is no longer able to record audio or video of the qualifying incident/activity.

2. When the employee has reason to believe such circumstances exist, the employee should, when practical and safe, state on the recording the reasons for deactivation prior to deactivating the camera.

3. Except as noted in section 446.5.1, section 446.5.2 or elsewhere within this policy, employees and supervisors are not permitted to deactivate their MAV/ BWC when they are actively conducting police action in the presence of a member of the public.

(i) Sections (a) through (h) above apply to not only the employee assigned to or handling the designated contact, but all other employees and supervisors present who are within audio/video range of the designated contact or police activity.

The MAV/BWC system is designed to turn on whenever the unit's emergency lights are activated.Recording is mandatory whenever driving Code-3. The MAV/BWC shall remain on during the entire duration of any Code-3 driving.

The Department recognizes there may be situations with rapidly evolving circumstances where activating the MAV/BWC immediately is not possible. If an officer does not immediately activate the MAV/BWC in such an instance, the officer shall activate the MAV/BWC as soon as possible. In such instances, employees shall document the existence, absences, or delayed activation of the MAV/BWC recordings in an associated Department report. Documentation must include an explanation for the absence or delay in recording with the MAV/BWC systems.When an employee is required to activate the BWC and fails to do so, the employee shall, upon conclusion of the event, notify a supervisor as soon as practicable.

The failure to activate a MAV/BWC, or the absence of a MAV/BWC recording in circumstances require by Department policy shall be evaluated based upon the objective facts and circumstances facing the employee at the time.

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446.5.1 EXCEPTIONS

Prohibited: Employees shall not activate a BWC in the following circumstances:

(a) Department meetings including, but not limited to, briefings, administrative meetings, supervisory meetings, mediations, counseling, any testing environment, and in-service training.

(b) At pre-planning meetings, while planning operations with other law enforcement personnel, unless specifically authorized by the incident commander or supervisor.

(c) While in any magistrate, commissioner, or judge's chambers, or in any courtroom except when conducting an investigative or enforcement activity with a member of the public as specified in this policy.

(d) While discussing Department-related issues with other members of the department or City unless otherwise required by this policy.

(e) While in a jail facility other than the Newport Beach Police Department that requires removal or deactivation of BWCs.

(f) While in restrooms, locker rooms, or other locations where individuals may be undressed and no investigative or enforcement activities are reasonably anticipated or occurring, an employee may power off the BWC.

(g) During strip searches in the Jail; however, recording must resume until completion of the arrest process and the arrestee is turned over to Jail staff.

At Employee's Discretion: Employees are not required to activate a BWC in the following circumstances, but are permitted to at their discretion:

(a) Public contacts when they occur during undercover operations or in interactions with a confidential informant or an undercover officer.

446.5.2 AUDIO MUTING

Employees may mute the BWC audio recording for the purpose of discussing employee performance, investigative strategies, techniques or priorities, evidence collection, tactics, or other information related to the incident only when they are not conducting police action in the presence of a member of the public. Employees may also mute the BWC audio in any situation that meets the exceptions described in section 446.5.1. Before muting, employees shall clearly state on the BWC recording the reason(s) they are muting audio.

446.5.3 PRE-EVENT RECORDING

In order to provide an accurate record of events that occurred before a vehicle accident or collision or when an employee cannot activate the MAV or BWC in an emergency or rapidly unfolding situation, a pre-event recording period is critical. The MAV and BWC recordings will include video recorded 30 seconds prior to manual or automatic activation of either unit. Audio is not recorded during this 30-second period.

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When powered "on," certain MAV/BWC systems have the capability to capture lower-resolution video evidence (without audio) for a period of time greater than 30 seconds, even when the camera was not actively recording.This function provides users the opportunity to retrieve/recall evidence in the event that a camera was not recording during a critical incident but evidence is needed.

As such, except as outlined in section 446.5.1, all employees, while on-duty outside of the police department or while in public areas of the police department, shall have their BWC powered "on" and in standby mode (turned on, but not actively recording) even when they are not actively engaged in a qualifying investigation/incident as defined in section 446.5.

446.5.4 AUTOMATIC ACTIVATION
The MAV/BWC will activate automatically when any of the following actions occur:

(a) An employee's Taser 7 is powered on

(b) An MAV unit or BWC comes into proximity of another activated MAV/BWC (exact distance of proximity varies depending on obstructions or interference)

(c) An equipped vehicle's emergency lights are activated

(d) An equipped vehicle is involved in a vehicle accident or collision

(e) An equipped vehicle reaches a speed of 85 miles per hour

Employees shall not interfere with or defeat the automatic activation of the MAV/BWC. Employees are permitted to cancel the automatic MAV/BWC recording when function testing the Taser 7, when activation is inadvertent or when a proximity activation occurs but an employee is not on a call for service or not involved in a situation where recording is mandatory.

446.6 REVIEW OF MAV/BWC RECORDINGS

All recording media, recorded images and audio recordings are the property of the Newport Beach Police Department. Dissemination outside of the agency is strictly prohibited, except to the extent permitted by this policy or required by law. Viewing of any recordings or images must be within the scope of an employee's duties and only for legitimate business purposes.

Department personnel may review their own MAV/BWC recordings. Recordings may also be reviewed in any of the following situations:

(a) For use when preparing reports or statements

(b) By a supervisor investigating a specific act of employee conduct

(c) By a supervisor to routinely assess officer performance, with the approval of a person of the next higher rank

(d) To assess proper functioning of MAV/BWC systems

(e) By Department or other law enforcement personnel who are participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation

(f) By other Department personnel in the scope of their duties

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(g) By an employee who is captured on or referenced in the video or audio data and reviews and uses such data for any purpose relating to his/her employment

(h) By court personnel through proper process or with permission of the Chief of Police or the authorized designee

(i) By the media through proper process or with permission of the Chief of Police or the authorized designee

(j) To assess possible training value

(k) Recordings may be shown for training purposes. If an involved employee objects to showing a recording, his/her objection will be submitted to the staff to determine if the training value outweighs the officer's objection

(l) A supervisor may prevent an officer from reviewing any MAV/BWC recording during an official Department investigation, with approval from the Chief of Police or his/her designee

(m) To conduct a policy compliance audit as described below

In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee. Department personnel recorded in any MAV/BWC video should be notified prior to any review or copies being made in response to a Public Records Act request or for training or educational purposes.In the event prior notification is not possible, those personnel shall be notified as soon as practical by e-mail or verbal notice. A Video Technician shall ensure notifications are documented on the request form. Notification to employees before conducting scheduled audits of MAV/BWC recordings is not required. Department personnel should reasonably expect that copies of MAV/BWC recordings will be provided for criminal and civil proceedings via discovery request or Subpoena Duces Tecum and will not be notified of recordings made for those purposes. If advance notification compromises an investigation or inquiry, the Chief of Police or his/her designee may grant exception to this rule.

446.7 SCHEDULED AUDITS OF MAV/BWC RECORDINGS

All Police Sergeants who supervise any employee assigned a BWC are required to participate in an audit for compliance with this policy at least once per quarter. The audit shall include review of a minimum of two randomly selected calls for service per sergeant, including employee-initiated contacts in the field, as specified below:

- 1 call for service which did not result in a DR number being pulled, and
- 1 call for service with a DR number that resulted in an incident or arrest report

Professional Standards Unit (PSU) personnel shall randomly select two calls per sergeant using random.org's random integer generator (https://www.random.org/integers/) loaded with all CAD event numbers and DR numbers generated during the review period. PSU will then prepare an audit assignment form for each sergeant with the calls to be reviewed and sergeants will provide a determination if the employees involved in the call for service were within policy. PSU shall maintain a written procedure, including the master audit assignment form, records of random selection of calls for service and audit results.

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The audit shall specifically assess whether:

(a) The BWC or MAV was activated upon initiation of a call for service or other employee action as outlined in this policy

(b) Upon activation, the Bwc or MAV remained activated in accordance with this policy

(c) The content of the incident or arrest report corresponds to the audio and video recordings

(d) Employees' actions were consistent with Department policy and procedure

(e) Any audio muting is appropriate and the employee properly recorded the reason for the muting.

446.8 ACCESS TO THE BWC SYSTEM ON MOBILE DEVICES

The MAV/BWC system is designed to function on cellular phones and tablets. Employees are permitted to access the live view, BWC set-up, Taser management and other features of the system and recordings on approved personal, stipend or Department-owned mobile devices in compliance with this policy. All mobile devices with access to the MAV/BWC system must be approved by Information Technology (IT) before they are used.

446.9 OTHER RECORDINGS

Employees are permitted to use the Axon app on a stipend phone, or Department-owned cellular phone or tablet to record, view or upload audio, video and photographs. Employees who use a personally-owned or stipend mobile device to record or access recordings do so with the knowledge and understanding that the contents of their personal device could be discoverable in a court proceeding.

The only authorized use of a stipend mobile device to record audio, video or photographs is through the Axon app. No other means of recording audio, video or photographs on a mobile device is permitted.

Employees may use "markers" inserted during BWC recording to indicate key portions of the recording; however, employees may not substitute BWC recording markers for evidentiary photographs and shall not refer to these markers as photos or photographs in the corresponding incident, traffic collision or arrest report.

446.10 MAV/BWC RECORD RETENTION

MAV/BWC records shall be kept for two years. Video Technicians assigned to the Records Section shall be responsible for purging records in accordance with City of Newport Beach Records Retention Policy. Department personnel are required to place a hold on any MAV/BWC record that may be needed for evidence, future litigation or further investigation beyond the two-year period.

446.10.1 INADVERTENT RECORDINGS

The Support Services Division will establish a form with written procedures whereby an employee may request permanent deletion of inadvertent or accidental recordings. Employees may submit the request to their immediate supervisor who will review the recording and confirm that it was

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made in error and does not meet the criteria for recording contacts or police action required under this policy. The supervisor will then forward their recommendation as to whether the recording should be deleted to the employee's Division Commander. The Division Commander must approve the deletion request, declaring it is not a record kept in the normal course of business and may be deleted.

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Mobile Digital Computer Use

448.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use, and application of the Mobile Digital Computer (MDC) system in order to ensure appropriate access to confidential records from local, state, and national law enforcement databases, and to ensure effective electronic communications between department members and Dispatch. See the CJIS Access, Maintenance, and Security Policy for additional guidance.

448.2 POLICY

Newport Beach Police Department members using the MDC shall comply with all appropriate federal and state rules and regulations and shall use the MDC in a professional manner, in accordance with this policy.

448.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to messages accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

448.4 RESTRICTED ACCESS AND USE

MDC use is subject to the Information Technology Use, Protected Information, and CJIS Access, Maintenance, and Security policies.

Members shall not access the MDC system if they have not received prior authorization and the required training. Members shall immediately report unauthorized access or use of the MDC by another member to their supervisors or Watch Commanders.

Use of the MDC system to access law enforcement databases or transmit messages is restricted to official activities, business-related tasks, or communications that are directly related to the business, administration, or practices of the Department. In the event that a member has questions about sending a particular message or accessing a particular database, the member should seek prior approval from their supervisor.

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

It is a violation of this policy to transmit a message or access a law enforcement database under another member's name or to use the password of another member to log in to the MDC system unless directed to do so by a supervisor. Members are required to log off the MDC or secure the MDC when it is unattended. This added security measure will minimize the potential for unauthorized access or misuse.

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448.4.1 USE WHILE DRIVING

Use of the MDC by the vehicle operator should be limited to times when the vehicle is stopped. Information that is required for immediate enforcement, investigative, tactical or safety needs should be transmitted over the radio.

Short transmissions, such as a license plate check, are permitted if it reasonably appears that it can be done safely. In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

448.5 DOCUMENTATION OF ACTIVITY

Except as otherwise directed by the Watch Commander or other department-established protocol, all calls for service assigned by a dispatcher should be communicated by voice over the police radio and electronically via the MDC unless security or confidentiality prevents such broadcasting.

MDC and voice transmissions are used to document the member's daily activity. To ensure accuracy:

(a) All contacts or activity shall be documented at the time of the contact.

(b) Whenever the activity or contact is initiated by voice, it should be documented by a dispatcher.

(c) Whenever the activity or contact is not initiated by voice, the member shall document it via the MDC.

448.5.1 STATUS CHANGES

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted over the police radio or through the MDC system.

Members responding to in-progress calls should advise changes in status over the radio to assist other members responding to the same incident. Other changes in status can be made on the MDC when the vehicle is not in motion.

448.5.2 EMERGENCY ACTIVATION

If there is an emergency activation and the member does not respond to a request for confirmation of the need for emergency assistance or confirms the need, available resources will be sent to assist in locating the member. If the location is known, the nearest available officer should respond in accordance with the Officer Response to Calls Policy.

Members should ensure a field supervisor and the Watch Commander are notified of the incident without delay.

Officers not responding to the emergency shall refrain from transmitting on the police radio until a no-further-assistance broadcast is made or if they are also handling an emergency.

448.6 EQUIPMENT CONSIDERATIONS

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448.6.1 MALFUNCTIONING MDC

Whenever possible, members will not use vehicles with malfunctioning MDCs. Whenever members must drive a vehicle in which the MDC is not working, they shall notify Dispatch. It shall be the responsibility of the dispatcher to document all information that will then be transmitted verbally over the police radio.

448.6.2 BOMB CALLS

When investigating reports of possible bombs, members should not communicate on their MDCs when in the evacuation area of a suspected explosive device. Radio frequency emitted by the MDC could cause some devices to detonate.

448.6.3 EQUIPMENT TRACKING LOCATION SERVICES

All Newport Beach MDC not assigned to fleet vehicles are equipment with tracking systems. These systems shall not be removed or damaged. If a tracking device falls off or is somehow rendered inoperable, the MDC shall be returned to the Newport Beach Police Department IT staff.

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Automatic Vehicle Locator System

449.1 PURPOSE

The purpose of the Automatic Vehicle Locator (AVL) System is to assist Communications personnel with dispatching units and locating personnel in emergency situations. The AVL System is also intended to provide field personnel with an enhanced mapping and call routing companion to the Computer Aided Dispatch system.

449.2 POLICY

It is the policy of this Department to install, use, and maintain an Automatic Vehicle Locator (AVL) System in designated police vehicles.

449.3 SYSTEM USE

Field Personnel

(a) Department field personnel assigned to a vehicle outfitted with an AVL System have the ability to utilize an enhanced mapping system with call routing information displayed on their mobile computer screen. The AVL System also has the ability to provide field personnel with their current location.

(b) Department personnel shall not modify or change any component or software item of an AVL System installed in any designated police vehicle.

(c) Department field personnel assigned to a vehicle outfitted with an AVL System that is not functioning properly shall report the problem and exchange the vehicle for one with a properly functioning AVL System when availability permits.

Communications Personnel

(a) Communications personnel may utilize the AVL System to select and dispatch a unit to a call for service based on their location.

(b) Communications personnel may utilize the AVL System to locate field personnel involved in emergencies or perceived emergency situations such as, but not limited to, pursuits, emergency button activations, or a lack of a response to radio transmissions.

(c) Communications personnel shall verify that all in-service vehicles with AVL Systems are displayed on the AVL screen in Communications, and shall notify any unit when their AVL System is not properly functioning. Notification of the failure shall also be made to the on-duty Watch Commander.

(d) Communications personnel shall not utilize the AVL System to monitor the movements of individual offers involved in routine activities.

AVL System Database Review

(a) The AVL System is not intended to be used as a supervisory tool to routinely or randomly monitor the movements of field personnel.

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(b) Review of the AVL System Database is limited to supervisory personnel in the course of their duties. Department personnel may request a review of the AVL System Database for their assigned vehicle in order to assist in reconstructing and documenting their movement in situations such as a pursuit. This request should be made to the on-duty Watch Commander who will be responsible for authorizing the release of this data. Any other review will require the express approval of the Chief of Police or his designee.

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Portable Audio/Video Recorders

450.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of the Newport Beach Police Department while in the performance of their duties. Portable audio/video recording devices include recording systems such as PUMA recording devices and Go Pro style cameras.

This policy does not apply to integrated MAV/BWC (such as WatchGuard) systems, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices). Portable audio/video recording devices are generally used by personnel in plainclothes assignments, such as Detectives and Investigators, or personnel who are not assigned to a MAV/BWC equipped marked police unit.

450.2 POLICY

The Newport Beach Police Department may provide employees with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between employees of the Department and the public.

450.3 EMPLOYEE PRIVACY EXPECTATION

All recordings made by employees on any Department issued device at any time, and any recording made while acting in an official capacity for this Department, regardless of ownership of the device it was made on, shall remain the property of the Newport Beach Police Department. Employees shall have no expectation of privacy or ownership interest in the content of these recordings.

450.4 EMPLOYEE RESPONSIBILITIES

Any employees assigned to a non-uniformed position may carry an approved portable recorder at any time the employee believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed employees should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Employees should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the employee deactivated the recording. Employees should include the reason for deactivation.

Employees shall record the related case number and book the recording media into evidence or upload the file in accordance with current procedure for storing digital files. Employees should upload the recording media at the end of each shift, but no later than the end of their shift on the last day of their work week.

Uniformed personnel may carry an approved portable audio/video recorder when they do not have access to a MAV (mobile audio/video) equipped unit, such as when working a bicycle patrol, foot

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beat, front desk or other assignment. Uniformed personnel with access to a MAV equipped vehicle may also use a portable audio/video recorder when they believe the portable device will provide a better recording of an event than a MAV unit. Such instances may include, but are not limited to, contacts or interviews inside large structures or at distances when MAV recording may not be practical.

450.4.1 SUPERVISOR RESPONSIBILITIES

Supervisors should take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

450.5 ACTIVATION OF THE PORTABLE RECORDER

This policy is not intended to describe every situation when a portable recording device should be used. Employees should activate the recorder any time the employee believes it would be appropriate or valuable to record an incident. Whenever possible the employee should start the recording with specific identifying information such as a name, date, location, case number, name of subject etc..

Personnel assigned to uniformed duties that have a portable audio/video recorder on their person shall activate either the portable audio/video recorder or their MAV/BWC whenever making contact with the public.

Employees should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the employee that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is an employee expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media.

450.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Employees of the Newport Beach Police Department may surreptitiously record any conversation during the course of a criminal investigation in which the employee reasonably believes that such a recording will be lawful and beneficial to the investigation (Penal Code § 633).

Employees shall not surreptitiously record another employee without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

450.5.2 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the employee reasonably believes that his/her direct participation in the incident is complete or the situation

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no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Employees shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

450.6 PROHIBITED USE OF PORTABLE RECORDERS

Employees are prohibited from using Department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Employees are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with- Department issued or approved personally owned recorders. Employees shall not duplicate or distribute such recordings, except for authorized legitimate Department business purposes. All such recordings shall be retained at the Newport Beach Police Department.

Any Employee who uses an approved personally owned recorder for on-duty related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any employee for the purpose of embarrassment, harassment or ridicule.

450.6.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM

The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with portable recorders is prohibited (Penal Code § 832.19).

450.7 REVIEW OF RECORDED MEDIA FILES

When preparing written reports or conducting investigations, employees should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, employees shall not retain personal copies of recordings. Employees should not use the fact that a recording was made as a reason to write a less detailed report. Nothing in this policy shall prohibit an employee from retaining separate copies of recordings with the case file of an investigation.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the employee's performance.

Recorded files may also be reviewed:

(a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.

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(b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.

(c) By media personnel with permission of the Chief of Police or the authorized designee.

(d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

(e) To review an event for training purposes.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

450.8 COORDINATOR

The Chief of Police or the authorized designee shall designate members of the Department to coordinate the use and maintenance of portable audio/video recording devices and the storage of recordings, including (Penal Code § 832.18):

(a) Establishing a system for uploading, storing and security of recordings.

(b) Designating persons responsible for downloading recorded data.

(c) Establishing a maintenance system to ensure availability of operable portable audio/video recording devices.

(d) Establishing a system for tagging and categorizing data according to the type of incident captured.

(e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.

(f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.

(g) Maintaining logs of access and deletions of recordings.

(h) Assignment and inventory of Department owned recording devices (PUMA devices).

450.9 RETENTION OF RECORDINGS

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

(a) Incidents involving use of force by an officer

(b) Officer-involved shootings

(c) Incidents that lead to the detention or arrest of an individual

(d) Recordings relevant to a formal or informal complaint against an officer or the Newport Beach Police Department

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

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All other recordings should be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

450.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

Department employees requesting copies of audio/video recordings shall complete a video/audio work request form (12.6), with supervisor approval, and submit it to the Video Technician in Support Services, or other designee, for processing.

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Medical Marijuana

451.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for investigating the acquisition, possession, transportation, delivery, production or use of marijuana under California's medical marijuana laws.

451.1.1 DEFINITIONS

Definitions related to this policy include:

Cardholder - A person issued a current identification card.

Compassionate Use Act (CUA) (Health and Safety Code § 11362.5) - California law intended to provide protection from prosecution to those who are seriously ill and whose health would benefit from the use of marijuana in the treatment of illness for which marijuana provides relief. The CUA does not grant immunity from arrest but rather provides an affirmative defense from prosecution for possession of medical marijuana.

Identification card - A valid document issued by the California Department of Public Health to both persons authorized to engage in the medical use of marijuana and also to designated primary caregivers.

Medical marijuana - Marijuana possessed by a patient or primary caregiver for legitimate medical purposes.

Medical Marijuana Program (MMP) (Health and Safety Code § 11362.7 et seq.) - California laws passed following the CUA to facilitate the prompt identification of patients and their designated primary caregivers in order to avoid unnecessary arrests and provide needed guidance to law enforcement officers. MMP prohibits arrest for possession of medical marijuana in certain circumstances and provides a defense in others.

Patient - A person who is entitled to the protections of the CUA because he/she has received a written or oral recommendation or approval from a physician to use marijuana for medical purposes or any person issued a valid identification card.

Primary caregiver - A person designated by the patient, who has consistently assumed responsibility for the patient's housing, health or safety, who may assist the patient with the medical use of marijuana under the CUA or the MMP (Health and Safety Code § 11362.5; Health and Safety Code § 11362.7).

Statutory amount - No more than 8 ounces of dried, mature, processed female marijuana flowers ("bud") or the plant conversion (e.g., kief, hash, hash oil), and no more than six mature or 12 immature marijuana plants (roots, stems and stem fibers should not be considered) (Health and Safety Code § 11362.77).

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451.2 POLICY

It is the policy of the Newport Beach Police Department to prioritize resources to forgo making arrests related to marijuana that the arresting officer reasonably believes would not be prosecuted by state or federal authorities.

California's medical marijuana laws are intended to provide protection to those who are seriously ill and whose health would benefit from the use of medical marijuana.

However, California medical marijuana laws do not affect federal laws and there is no medical exception under federal law for the possession or distribution of marijuana. The Newport Beach Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

451.3 INVESTIGATION

Investigations involving the possession, delivery, production or use of marijuana generally fall into one of several categories:

(a) Investigations when no person makes a medicinal claim.

(b) Investigations when a medicinal claim is made by a cardholder.

(c) Investigations when a medicinal claim is made by a non-cardholder.

451.3.1 INVESTIGATIONS WITH NO MEDICINAL CLAIM

In any investigation involving the possession, delivery, production or use of marijuana or drug paraphernalia where no person claims that the marijuana is used for medicinal purposes, the officer should proceed with a criminal investigation if the amount is greater than permitted for personal use under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1; Health and Safety Code § 11362.2). A medicinal defense may be raised at any time, so officers should document any statements and observations that may be relevant to whether the marijuana was possessed or produced for medicinal purposes.

451.3.2 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A CARDHOLDER

A cardholder or designated primary caregiver in possession of an identification card shall not be arrested for possession, transportation, delivery or cultivation of medical marijuana at or below the statutory amount unless there is probable cause to believe that (Health and Safety Code § 11362.71; Health and Safety Code § 11362.78):

(a) The information contained in the card is false or falsified.

(b) The card has been obtained or used by means of fraud.

(c) The person is otherwise in violation of the provisions of the MMP.

(d) The person possesses marijuana but not for personal medical purposes.

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Officers who reasonably believe that a person who does not have an identification card in his/her possession has been issued an identification card may treat the investigation as if the person had the card in his/her possession.

Cardholders may possess, transport, deliver or cultivate medical marijuana in amounts above the statutory amount if their doctor has concluded that the statutory amount does not meet the patient's medical needs (Health and Safety Code § 11362.71; Health and Safety Code § 11362.77). Investigations involving cardholders with more than the statutory amount of marijuana should be addressed as provided in this policy for a case involving a medicinal claim made by a non-cardholder.

451.3.3 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A NON-CARDHOLDER

No patient or primary caregiver should be arrested for possession or cultivation of an amount of medical marijuana if the officer reasonably believes that marijuana is in a form and amount reasonably related to the qualified patient's current medical needs (Health and Safety Code § 11362.5). This arrest guidance also applies to sales, transportation or delivery of medical marijuana, or maintaining/renting a drug house or building that may be a nuisance if otherwise in compliance with MMP (Health and Safety Code § 11362.765).

Officers are not obligated to accept a person's claim of having a physician's recommendation when the claim cannot be readily verified with the physician but are expected to use their judgment to assess the validity of the person's medical-use claim.

Officers should review any available written documentation for validity and whether it contains the recommending physician's name, telephone number, address and medical license number for verification.

Officers should generally accept verified recommendations by a physician that statutory amounts do not meet the patient's needs (Health and Safety Code § 11362.77).

451.3.4 ADDITIONAL CONSIDERATIONS

Officers should consider the following when investigating an incident involving marijuana possession, delivery, production, or use:

(a) Because enforcement of medical marijuana laws can be complex, time consuming, and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:

1. The suspect has been identified and can be easily located at a later time.
2. The case would benefit from review by a person with expertise in medical marijuana investigations.
3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.

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4. Other relevant factors, such as available department resources and time constraints prohibit making an immediate arrest.

(b) Whenever the initial investigation reveals an amount of marijuana greater than the statutory amount, officers should consider the following when determining whether the form and amount is reasonably related to the patient's needs:

1. The amount of marijuana recommended by a medical professional to be ingested.
2. The quality of the marijuana.
3. The method of ingestion (e.g., smoking, eating, nebulizer).
4. The timing of the possession in relation to a harvest (patient may be storing marijuana).
5. Whether the marijuana is being cultivated indoors or outdoors.

(c) Before proceeding with enforcement related to collective gardens or dispensaries, officers should consider conferring with a supervisor, an applicable state regulatory agency or other member with special knowledge in this area, and/or appropriate legal counsel (Business and Professions Code § 26010; Business and Professions Code § 26060). Licensing, zoning, and other related issues can be complex. Patients, primary caregivers, and cardholders who collectively or cooperatively cultivate marijuana for medical purposes may be licensed or may have a defense in certain circumstances (Business and Professions Code § 26032; Business and Professions Code § 26033).

(d) Investigating members should not order a patient to destroy marijuana plants under threat of arrest.

451.3.5 EXCEPTIONS

This policy does not apply to, and officers should consider taking enforcement action for the following:

(a) Persons who engage in illegal conduct that endangers others, such as driving under the influence of marijuana in violation of the Vehicle Code (Health and Safety Code § 11362.5).

(b) Marijuana possession in jails or other correctional facilities that prohibit such possession (Health and Safety Code § 11362.785).

(c) Smoking marijuana (Health and Safety Code § 11362.79):

1. In any place where smoking is prohibited by law.
2. In or within 1,000 feet of the grounds of a school, recreation center or youth center, unless the medical use occurs within a residence.
3. On a school bus.
4. While in a motor vehicle that is being operated.
5. While operating a boat.

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(d) Use of marijuana by a person on probation or parole, or on bail and use is prohibited by the terms of release (Health and Safety Code § 11362.795).

451.3.6 INVESTIGATIONS INVOLVING A STATE LICENSEE

No person issued a state license under the Business and Professions Code shall be arrested or cited for cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution or sale of medical cannabis or a medical cannabis product related to qualifying patients and primary caregivers when conducted lawfully. Whether conduct is lawful may involve questions of license classifications, local ordinances, specific requirements of the Business and Professions Code and adopted regulations. Officers should consider conferring with a supervisor, the applicable state agency or other member with special knowledge in this area and/or appropriate legal counsel before taking enforcement action against a licensee or an employee or agent (Business and Professions Code § 26032).

451.4 FEDERAL LAW ENFORCEMENT

Officers should provide information regarding a marijuana investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have a particular interest in the information.

451.5 PROPERTY OFFICE SUPERVISOR RESPONSIBILITIES

The Property Office supervisor should ensure that marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed pending any charges and without a court order. The Property Office supervisor is not responsible for caring for live marijuana plants.

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Property Office supervisor should, as soon as practicable, return to the person from whom it was seized any useable medical marijuana, plants, drug paraphernalia or other related property.

The Property Office supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Detective Division supervisor.

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Bicycle Patrol Unit

453.1 PURPOSE AND SCOPE

The Newport Beach Police Department has established the Bicycle Patrol Unit (BPU) for the purpose of enhancing patrol efforts in the community. Bicycle patrol has been shown to be an effective way to increase officer visibility in congested areas and their quiet operation can provide a tactical approach to crimes in progress. The purpose of this policy is to provide guidelines for the safe and effective operation of the patrol bicycle.

453.2 POLICY

Patrol bicycles may be used for regular patrol duty, traffic enforcement, parking control, or special events. The use of the patrol bicycle will emphasize their mobility and visibility to the community.

Bicycles may be deployed to any area at all hours of the day or night, according to Department needs and as staffing levels allow.

Requests for specific deployment of bicycle patrol officers shall be coordinated through the Bicycle Patrol Unit supervisor or the Watch Commander.

453.3 SELECTION OF PERSONNEL

Interested sworn personnel, who are off probation, shall submit a change of assignment request to their appropriate Division Commander. A copy will be forwarded to the BPU supervisor. Qualified applicants will then be invited to an oral interview. The oral board will consist of the BPU supervisor and second person to be selected by the BPU supervisor. Interested personnel shall be evaluated by the following criteria:

(a) Recognized competence and ability as evidenced by performance.

(b) Special skills or training as it pertains to the assignment.

(c) Good physical condition.

(d) Willingness to perform duties using the bicycle as a mode of transportation.

453.3.1 BICYCLE PATROL UNIT SUPERVISOR

The Bicycle Patrol Unit supervisor will be selected from the rank of sergeant by the Patrol Division Commander or his/her designee.

The Bicycle Patrol Unit supervisor shall have responsibility for the following:

(a) Organizing bicycle patrol training.

(b) Inspecting and maintaining inventory of patrol bicycles and program equipment.

(c) Scheduling maintenance and repairs.

(d) Evaluating performance of bicycle officers.

(e) Coordinating activities with all Divisions.

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(f) Other activities as required to maintain the efficient operation of the Bicycle Patrol Unit.

453.4 TRAINING

Participants in the program must complete an initial Department approved bicycle-training course after acceptance into the program. Thereafter bicycle patrol officers should receive twice yearly in-service training to improve skills and refresh safety, health and operational procedures. The initial training shall minimally include the following:

- Bicycle patrol strategies.
- Bicycle safety and accident prevention.
- Operational tactics using bicycles.

Bicycle patrol officers will be required to qualify with their duty firearm while wearing bicycle safety equipment including the helmet and riding gloves.

453.5 UNIFORMS AND EQUIPMENT

Officers shall wear the department-approved uniform and safety equipment while operating the department bicycle. Safety equipment includes department-approved helmet, riding gloves, protective eyewear and approved footwear.

The bicycle patrol unit uniform consists of the standard short-sleeve uniform shirt or other department-approved shirt with department badge and patches, and department-approved bicycle patrol pants or shorts.

Optional equipment includes a radio head set and microphone, and jackets in colder weather. Turtleneck shirts are permitted when worn under the uniform shirt.

Bicycle patrol officers shall carry the same equipment on the bicycle patrol duty belt as they would on a regular patrol assignment.

Officers will be responsible for obtaining the necessary forms, citation books and other department equipment needed while on bicycle patrol.

453.6 CARE AND USE OF PATROL BICYCLES

Officers will be assigned a specially marked and equipped patrol bicycle, attached gear bag, two batteries and a charger.

Bicycles utilized for uniformed bicycle patrol shall be primarily black or white in with a "POLICE" decal affixed to each side of the crossbar or the bike's saddlebag. Every such bicycle shall be equipped with front and rear reflectors front lights and a siren/horn satisfying the requirements of Vehicle Code §2800.1(b).

Bicycles utilized for uniformed bicycle patrol shall be equipped with a rear rack and/or saddle bag(s) sufficient to carry all necessary equipment to handle routine patrol calls including report writing, vehicle storage and citations.

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Each bicycle shall be equipped with a steady or flashing blue warning light that is visible from the front, sides, or rear of the bicycle. (Vehicle Code § 21201.3)

Bicycle officers shall conduct an inspection of the bicycle and equipment prior to use to insure proper working order of the equipment. Officers are responsible for the routine care and maintenance of their assigned equipment (e.g., tire pressure, chain lubrication, overall cleaning).

If a needed repair is beyond the ability of the bicycle officer, a repair work order will be completed and forwarded to the program supervisor for repair by an approved technician.

Each bicycle will have scheduled maintenance twice yearly to be performed by a department approved repair shop/technician.

At the end of a bicycle assignment, the bicycle shall be returned clean and ready for the next tour of duty.

Officers shall not modify the patrol bicycle, remove, modify or add components except with the expressed approval of the bicycle supervisor, or in the event of an emergency.

A Bicycle Unit truck is available should the officer need to transport the patrol bicycle. Due to possible component damage, transportation of the patrol bicycle in a trunk or on a patrol car push-bumper is discouraged.

Bicycles shall be properly secured when not in the officer's immediate presence.

453.7 OFFICER RESPONSIBILITY

Officers must operate the bicycle in compliance with the vehicle code under normal operation. Officers may operate the bicycle without lighting equipment during hours of darkness when such operation reasonably appears necessary for officer safety and tactical considerations. Officers must use caution and care when operating the bicycle without lighting equipment.

Officers are exempt from the rules of the road under the following conditions (Vehicle Code § 21200(b)(1)):

(a) In response to an emergency call.

(b) While engaged in rescue operations.

(c) In the immediate pursuit of an actual or suspected violator of the law.

453.8 ALL-TERRAIN VEHICLE (ATV) SAFETY

The purpose of the policy is to enhance the safety of all personnel who may utilize the all-terrain vehicles and establish guidelines for it's use.

A. Barring an emergency, or exigent circumstances, while operating a department ATV (quad), officers shall wear a department provided DOT approved helmet.

B. Only personnel who have attended the in-house rider safety training facilitated by the Peninsula Enforcement Team will be permitted to deploy the ATVs.

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C. ATVs (quads and side-by-side) should be kept to the beach and boardwalk other than in the following scenarios:

   1. emergency call for service where an officer is nearby, and an ATV may expedite response time.

   2. traversing a roadway to get to other parts of the beach.

D. At no time will personnel engage in a vehicle pursuit while riding the ATVs.

E. Personnel are expected to ride in the safest manner possible, consistent with all laws and best practices, both to present a good example to the public and reduce incidents of accidents and injuries.

F. ATVs will be stored at Lifeguard Headquarters and shall not be moved to other areas of the City without prior approval from the PET Sergeant.

G. Any accident or injuries involving personnel operating an ATV are to be reported immediately to the on duty Watch Commander.

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OCSD Marine Safety/Harbor Patrol

454.1 CRIMINAL INVESTIGATION AND ARRESTS

The Newport Beach Police Department has authority to investigate all crime that occurs in Newport Harbor. When the Orange County Sheriff's Department Harbor Patrol makes an arrest and requests the assistance of Newport Beach Police Department Personnel, the Department will generally:

- Recognize OCSD as the authority to handle reports on water based incidents. NBPD shall handle reports on land based incidents. Land based shall be defined as any area accessible by foot including, but not limited to, public and private docks, ferries, piers, beaches, rock jetties, etc. Water based shall be defined as all other areas, not accessible by foot. All water based cases initiated by the OCSD or any cases initiated by the NBPD that may have a mutual agency interest shall be forwarded to the other respective agency for information sharing purposes. The NBPD records bureau shall forward these cases to the OCSD Detective Division. The OCSD Harbor Department shall forward to the NBPD Records Section any reports that would have a Newport Beach interest.
- Accept those prisoners arrested by the OCSD for OCHJC and NBMC warrants into the NBPD City Jail. The OCSD shall incur no fees on these bookings. In the event that an OCSD warrant booking requires housing at OCJ, and the original arresting agency is other than NBPD, the OCSD shall transport the prisoner to the OCJ.
- OCSD shall be responsible for the transport of arrests for possession of narcotics, misdemeanor alcohol related offenses, traffic offenses or warrants other than those noted above, unless approved by the OCSD and NBPD Watch Commanders.
- Felonies in which an extensive follow-up or land based contacts are required shall be handled by the NBPD. Felonies that are clearly and entirely water based may be handled by the OCSD. A Unified Command system would make this determination. The Unified Command would consist of the NBPD Detective Lieutenant and the OCSD Harbor Patrol Watch Commander or their designee. OCSD shall notify the NBPD of its intention to open felony water based cases.
- OCSD may book those males arrested for 647(f) P.C. (Drunk in Public) at the NBPD City Jail. The OCSD shall incur no fee on these bookings. Female OCSD arrestees shall not be booked at NBPD.

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Law Enforcement Services in State Park Areas

456.1 PURPOSE AND SCOPE

California State Parks (CSP) operates facilities and beaches within the City. While the Newport Beach Police Department has the authority to investigate all crimes that occur within the City, CSP provides basic law enforcement services for these State Park areas. Our Department provides certain supplemental and investigative services for CSP and will respond to emergencies and similar requests for assistance.

456.1.1 CALLS FOR POLICE SERVICES

(a) Requests for routine, non-emergency law enforcement services shall be referred to CSP communications. CSP will conduct preliminary investigations and take any appropriate crime reports.

(b) The Newport Beach Police Department shall respond as appropriate to all emergencies and in-progress serious crimes. Communications shall ensure that CSP is notified of the incident.

(c) CSP will continue to be the primary response agency for traffic collisions on State Park property. The Newport Beach Police Department will respond on a mutual aid basis to assist in any serious traffic collision.

(d) Requests for law enforcement mutual aid shall be handled under the mutual aid protocol adopted by the Orange County Chiefs of Police and Sheriff's Association.

456.1.2 INVESTIGATIVE SERVICES

(a) Preliminary investigations of serious or violent crimes: Such crimes include murder, aggravated assaults, sexual assaults, robbery, and death investigations, or traffic collisions with serious or fatal injuries or involving a felony crime.

(b) Investigative follow-up: For all reported crimes and/or serious traffic collisions, Investigator call-outs may be requested and approved by a NBPD supervisor.

(c) Crime scene investigation, including initial CSI, evidence handling and processing, and all other forensic services: Such requests shall be routed through Communications utilizing existing call-out and response procedures.

(d) Crime Analysis and Criminal Intelligence: Detective Division personnel will ensure such information relative to activities in and adjacent to the State Park is provided to CSP personnel.

(e) Exception(s): CSP will respond, investigate, and complete required crime reports for all non-violent crimes and routine traffic collisions occurring in State Park / State Beach area(s).

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Foot Pursuits

457.1 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

457.2 DECISION TO PURSUE

The safety of department members and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department members.

Officers may be justified in initiating a foot pursuit of any individual the officer reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity or being wanted by law enforcement.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits may place department members and the public at significant risk. Therefore, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to a foot pursuit based upon the circumstances and resources available, such as:

(a) Containment of the area.

(b) Saturation of the area with law enforcement personnel, including assistance from other agencies.

(c) A canine search.

(d) Thermal imaging or other sensing technology.

(e) Air support.

(f) Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the foot pursuit.

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457.3 GENERAL GUIDELINES

When reasonably practicable, officers should consider alternatives to engaging in or continuing a foot pursuit when:

(a) Directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory

(b) The officer is acting alone.

(c) Two or more officers become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the suspect in sight from a safe distance and coordinate the containment effort.

(d) The officer is unsure of his/her location and direction of travel.

(e) The officer is pursuing multiple suspects and it is not reasonable to believe that the officer would be able to control the suspect should a confrontation occur.

(f) The physical condition of the officer renders him/her incapable of controlling the suspect if apprehended.

(g) The officer loses radio contact with the dispatcher or with assisting or backup officers.

(h) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.

(i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.

(j) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.

(k) The officer loses possession of his/her firearm or other essential equipment.

(l) The officer or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.

(m) The suspect's location is no longer definitely known.

(n) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to department members or the public if the suspect is not immediately apprehended.

(o) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other environmental conditions.

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457.4 RESPONSIBILITIES IN FOOT PURSUITS

457.4.1 INITIATING OFFICER RESPONSIBILITIES

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating officer should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient officers are present to safely apprehend the suspect.

Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers initiating a foot pursuit should, at a minimum, broadcast the following information as soon as it becomes practicable and available:

(a) Location and direction of travel

(b) Call sign identifier

(c) Reason for the foot pursuit, such as the crime classification

(d) Number of suspects and description, to include name if known

(e) Whether the suspect is known or believed to be armed with a dangerous weapon

Officers should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any officer unable to promptly and effectively broadcast this information should terminate the foot pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify the dispatcher of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary, to include requesting medical aid as needed for officers, suspects or members of the public.

457.4.2 ASSISTING OFFICER RESPONSIBILITIES

Whenever any officer announces that he/she is engaged in a foot pursuit, all other officers should minimize non-essential radio traffic to permit the involved officers maximum access to the radio frequency.

457.4.3 SUPERVISOR RESPONSIBILITIES

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible; the supervisor does not, however, need not be physically present to exercise control over the foot pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

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The supervisor shall terminate the foot pursuit when the danger to pursuing officers or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor shall promptly proceed to the termination point to direct the post-foot pursuit activity.

457.4.4 DISPATCH RESPONSIBILITIES

Upon notification or becoming aware that a foot pursuit is in progress, the dispatcher is responsible for:

(a) Clearing the radio channel of non-emergency traffic.

(b) Coordinating pursuit communications of the involved officers.

(c) Broadcasting pursuit updates as well as other pertinent information as necessary.

(d) Ensuring that a field supervisor is notified of the foot pursuit.

(e) Notifying and coordinating with other involved or affected agencies as practicable.

(f) Notifying the Watch Commander as soon as practicable.

(g) Assigning an incident number and logging all pursuit activities.

457.5 REPORTING REQUIREMENTS

The initiating officer shall complete appropriate crime/arrest reports documenting, at minimum:

(a) Date and time of the foot pursuit.

(b) Initial reason and circumstances surrounding the foot pursuit.

(c) Course and approximate distance of the foot pursuit.

(d) Alleged offenses.

(e) Involved vehicles and officers.

(f) Whether a suspect was apprehended as well as the means and methods used.

1. Any use of force shall be reported and documented in compliance with the Use of Force Policy.

(g) Arrestee information, if applicable.

(h) Any injuries and/or medical treatment.

(i) Any property or equipment damage.

(j) Name of the supervisor at the scene or who handled the incident.

Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

The supervisor reviewing the report will make a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.

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In any case in which a suspect is not apprehended and there is insufficient information to support further investigation, a supervisor may authorize that the initiating officer need not complete a formal report.

457.6 POLICY

It is the policy of this department that officers, when deciding to initiate or continue a foot pursuit, continuously balance the objective of apprehending the suspect with the risk and potential for injury to department members, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances.

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Automated License Plate Readers (ALPRs)

461.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

461.2 POLICY

The Policy of the Newport Beach Police Department is to utilize ALPR technology to capture and store digital license plate and vehicle description 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 information, it is not open to public review.

461.3 ADMINISTRATION

ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Newport Beach Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Support Services Division Commander or an authorized designee.The Support Services Commander or authorized designee will assign personnel under his/her command to administer the day-to-day operation of the ALPR system and data.

461.3.1 ALPR ADMINISTRATOR

The Support Services Division 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 employees 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) Ensuring compliance with the Records Retention Schedule for retention and destruction of ALPR data.

(f) The title and name of the current designee in overseeing the ALPR operation.

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(g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

461.4 OPERATIONS

Use of any ALPR data is restricted to the purposes outlined below. Department employees shall not use, or allow others to use the system 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) ALPR data may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using ALPR data.

(c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

(d) No employee of this department shall operate the ALPR system or access ALPR data without first completing department-approved training.

(e) No ALPR operator may access department, state or federal data unless they have both a legitimate need and a right to access data. "Need" shall be defined as a legitimate law enforcement need related to an investigation or report follow-up.

(f) Any alerts (wanted returns) received from the ALPR system, including lost or stolen license plates, stolen vehicles, wanted persons, outstanding warrants, Amber Alerts and vehicles of interest, should be confirmed through the MCT or Dispatch before any law enforcement action is taken absent additional information necessitating immediate police action.

(g) Absent a confirmed warrant, hit or stolen vehicle return, officers must develop independent reasonable suspicion to initiate a traffic stop on vehicles of interest identified in an ALPR system alert.

461.5 DATA COLLECTION AND RETENTION

The Support Services Division Commander is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data.

All ALPR data downloaded to the ALPR system should be stored for a minimum of 30 days in accordance with the established records retention schedule. Thereafter, ALPR data should be automatically deleted unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the system in accordance with established digital evidence collection and storage procedures.

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461.6 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Newport Beach 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 ALPR system 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) Employees approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

(c) Employees accessing information on the system must enter all information required for auditing purposes to include, at minimum, a valid Newport Beach Police Department case number or CAD incident number, a valid taskforce case/investigation number (if the employee is assigned to a taskforce and conducting an investigation in their official capacity as a member of the Newport Beach Police Department), and a reason for the inquiry.

461.7 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

461.8 TRAINING

The ALPR Administrator or the authorized designee should ensure that employees receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

461.9 INTERNAL/EXTERNAL ALPR AUDITS

It is the responsibility of the Support Services Lieutenant or the Chief's designee to ensure that an audit is conducted of the ALPR browsing inquiries once a month. The audit is intended to verify the proper use of internal and external inquiries in accordance with this policy and established laws.

The audit shall be documented and forwarded to the Chief of Police. The documentation shall include any internal and external unauthorized or improper queries of ALPR data.

461.10 HOTLISTS

Creation and modification of custom hotlists within the ALPR system is restricted to detectives, traffic investigators, and Crime Information Center personnel.

All custom hotlist vehicle entries shall adhere to the following requirements:

(a) Each entry shall be associated with a case number or event number.

(b) Each entry shall include an expiration date no more than 30 days from the date of entry.

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(c) Entries shall serve a legitimate investigative or public safety purpose.

(d) Entries shall not be used to routinely monitor known offenders or their associates who are not currently wanted in connection with a crime.

461.10.1 EXCEPTIONS

Dispatchers and Supervisors may hotlist vehicles or license plates in connection with active, patrol-based calls for service or investigations.

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Medical Aid and Response

463.1 PURPOSE AND SCOPE

This policy recognizes that members often encounter persons in need of medical aid and establishes a law enforcement response to such situations.

463.2 POLICY

It is the policy of the Newport Beach Police Department that all officers and other designated employees be trained to provide emergency medical aid and to facilitate an emergency medical response.

463.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact Dispatch and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide Dispatch with information for relay to EMS personnel in order to enable an appropriate response, including:

(a) The location where EMS is needed.

(b) The nature of the incident.

(c) Any known scene hazards.

(d) Information on the person in need of EMS, such as:

1. Signs and symptoms as observed by the member.
2. Changes in apparent condition.
3. Number of patients, sex, and age, if known.
4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
5. Whether the person is showing signs or symptoms of extreme agitation or is engaging in violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel whether to transport the person for treatment.

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463.4 TRANSPORTING ILL AND INJURED PERSONS

Except in exceptional cases where alternatives are not reasonably available, members should not transport persons who are not in custody and who are unconscious, who have serious injuries, or who may be seriously ill. EMS personnel should be called to handle patient transportation.

For guidelines regarding transporting ill or injured persons who are in custody, see the Transporting Persons in Custody Policy.

Members should not provide emergency escort for medical transport or civilian vehicles.

463.5 PERSONS REFUSING EMS CARE

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, an officer shall not force that person to receive care or be transported. However, members may assist EMS personnel when EMS personnel determine the person lacks mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the officer should consider proceeding with a 72-hour treatment and evaluation commitment (5150 commitment) process in accordance with the Mental Illness Commitments Policy.

If an officer believes that a person who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The officer may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

If the person who is in custody still refuses, the officer will require the person to be transported to the nearest medical facility. In such cases, the officer should consult with a supervisor prior to the transport.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

463.6 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, the arrestee should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, the officer should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance to an appropriate medical facility.

Nothing in this section should delay an officer from requesting EMS when an arrestee reasonably appears to be exhibiting symptoms that appear to be life threatening, including breathing problems

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or an altered level of consciousness, or is claiming an illness or injury that reasonably warrants an EMS response in accordance with the officer's training.

463.6.1 HOSPITAL SECURITY AND CONTROL

Officers who transport persons in custody to medical facilities for treatment should provide security and control during examination and treatment consistent with department protocols. Any such transport should be conducted in accordance with the Transporting Persons in Custody Policy.

The Patrol Division Commander should develop protocols related to the following:

(a) Providing security and control during an examination or treatment, including:
    1. Monitoring the person in custody (e.g., guarding against escape, suicide, and assault of others)
    2. Removal of restraints, if necessary and appropriate (see the Handcuffing and Restraints Policy)

(b) Responsibility for continuing security and control if the person in custody is admitted to the hospital
    1. This should include transferring custody of the person to an appropriate agency.

463.7 MEDICAL ATTENTION RELATED TO USE OF FORCE

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies.

463.8 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE

A member may use an AED only after receiving appropriate training from an approved public safety first aid and CPR course (22 CCR 100026.01; 22 CCR 100027.01; 22 CCR 100027.02).

463.8.1 AED USER RESPONSIBILITY

Members who are issued AEDs should check the AED at the beginning of the shift to ensure it is properly charged and functioning. Any AED that is not functioning properly shall be taken out of service and given to the Training Manager who is responsible for ensuring appropriate maintenance.

Following use of an AED, the device shall be cleaned and/or decontaminated as required. The electrodes and/or pads will be replaced as recommended by the AED manufacturer.

Any member who uses an AED should contact Dispatch as soon as possible and request response by EMS.

463.8.2 AED REPORTING

Any employee using an AED will document use in an appropriate report.

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463.8.3 AED TRAINING AND MAINTENANCE

The Training Manager should ensure appropriate training and refresher training is provided to members authorized to use an AED. A list of authorized members and training records shall be made available for inspection by the local EMS agency (LEMSA) or EMS authority upon request (22 CCR 100027.05; 22 CCR 100027.06; 22 CCR 100028.07).

The Training Manager is responsible for ensuring AED devices are appropriately maintained and will retain records of all maintenance in accordance with the established records retention schedule (22 CCR 100027.05).

463.9 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION

Trained members may administer opioid overdose medication (Business and Professions Code § 4119.9).

463.9.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES

Employees who complete the training outlined above will be issued Department/OCEMS approved overdose medication. Employees should check the medication at the beginning of their shift to ensure it is serviceable and not expired. Any expired medication should be removed from service and given to the Training Sergeant or Watch Commander in exchange for new medication.

Any Employee who administers an opioid overdose medication should contact Dispatch as soon as possible and request response by EMS.

463.9.2 OPIOID OVERDOSE MEDICATION REPORTING

Any employee administering opioid overdose medication shall detail its use in an appropriate report as described in section 344.2.5 of this policy. All reports documenting any adminstration of overdose medication will be forwarded to the Training Sergeant and designated Training Staff for review.

The Training Sergeant/ Training Staff will ensure that each adminstration of the overdose medication is reported to OCEMS or the appropriate LEMSA.

463.9.3 OPIOID OVERDOSE MEDICATION TRAINING

The Training Manager should ensure initial and refresher training is provided to members authorized to administer opioid overdose medication. Training should be coordinated with the local health department and comply with the requirements in 22 CCR 100027.03 and any applicable POST standards.

463.9.4 DESTRUCTION OF OPIOID OVERDOSE MEDICATION

The Training Manager shall ensure the destruction of any expired opioid overdose medication (Business and Professions Code § 4119.9).

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463.9.5 OPIOID OVERDOSE MEDICATION RECORD MANAGEMENT
Records regarding acquisition and disposition of opioid overdose medications shall be maintained and retained in accordance with the established records retention schedule and at a minimum of three years from the date the record was created (Business and Professions Code § 4119.9).

463.10 FIRST-AID TRAINING

The Training Manager should ensure officers receive initial first-aid training within one year of employment and refresher training every two years thereafter (22 CCR 100026.03; 22 CCR 100027.06).

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Public Recording of Law Enforcement Activity

464.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

464.2 POLICY

The Newport Beach Police Department recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Officers should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

464.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

(a) Recordings may be made from any public place or any private property where the individual has the legal right to be present (Penal Code § 69; Penal Code § 148).

(b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:

1. Tampering with a witness or suspect.
2. Inciting others to violate the law.
3. Being so close to the activity as to present a clear safety hazard to the officers.
4. Being so close to the activity as to interfere with an officer’s effective communication with a suspect or witness.

(c) The individual may not present an undue safety risk to the officers, him/herself or others.

464.4 OFFICER RESPONSE

Officers should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an

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individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

If an officer reasonably believes any such recordings are being made for criminal purposes, such as casing a location or identifying personnel for retaliation, the officer should thoroughly document the incident. All reports and documentation shall be forwarded to the Detective Division for follow-up.

464.5 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the officer and:

(a) Request any additional assistance as needed to ensure a safe environment.

(b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. The contact should be recorded in as outlined in sections 446 and 450 of this manual.

(c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.

(d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.

(e)

464.6 SEIZING RECORDINGS AS EVIDENCE

Officers should not seize recording devices or media unless (42 USC § 2000aa):

(a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.

1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.

(b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.

(c) The person consents.

1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.

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2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

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Crisis Intervention Incidents

465.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

465.1.1 DEFINITIONS

Definitions related to this policy include:

Person in crisis - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

465.2 POLICY

The Newport Beach 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.

465.3 SIGNS

Members should be alert to any of the following possible signs of mental health issues or crises:

(a) A known history of mental illness

(b) Threats of or attempted suicide

(c) Loss of memory

(d) Incoherence, disorientation or slow response

(e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas

(f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt

(g) Social withdrawal

(h) Manic or impulsive behavior, extreme agitation, lack of control

(i) Lack of fear

(j) Anxiety, aggression, rigidity, inflexibility or paranoia

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.

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465.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS

The Chief of Police should designate an appropriate Division Commander to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources, to guide department interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis.

465.5 FIRST RESPONDERS

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer responding to a call involving a person in crisis should:

(a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.

(b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.

(c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.

(d) Attempt to determine if weapons are present or available.

    1. Prior to making contact, and whenever possible and reasonable, conduct a search of the Department of Justice Automated Firearms System via the California Law Enforcement Telecommunications System (CLETS) to determine whether the person is the registered owner of a firearm (Penal Code § 11106.4).

(e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the officer.

(f) Secure the scene and clear the immediate area as necessary.

(g) Employ tactics to preserve the safety of all participants.

(h) Determine the nature of any crime.

(i) Request a supervisor, as warranted.

(j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.

(k) If circumstances reasonably permit, consider and employ alternatives to force.

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465.6 DE-ESCALATION

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.
- Evaluate if total disengagement is appropriate.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

465.7 INCIDENT ORIENTATION

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request that the dispatcher provide critical information as it becomes available. This includes:

(a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.

(b) Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous police response.

(c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

465.8 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene of any interaction with a person in crisis. Responding supervisors should:

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(a) Attempt to secure appropriate and sufficient resources.

(b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).

(c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.

(d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.

(e) Conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Division Commander.

Evaluate whether a critical incident stress management debriefing for involved members is warranted.

465.9 INCIDENT REPORTING

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings.

465.9.1 DIVERSION

Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy. (W&I 5150 - Civil Commitment 72 hours)

465.10 CIVILIAN INTERACTION WITH PEOPLE IN CRISIS

Civilian members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

(a) Members should treat all individuals equally and with dignity and respect.

(b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.

(c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

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465.11 EVALUATION

The Division Commander designated to coordinate the crisis intervention strategy for this department should ensure that a thorough review and analysis of the department response to these incidents is conducted annually. The report will not include identifying information pertaining to any involved individuals, officers or incidents and will be submitted to the Chief of Police through the chain of command.

465.12 TRAINING

In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis.

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, welfare checks and crisis intervention (Penal Code § 11106.4; Penal Code § 13515.25; Penal Code § 13515.27; Penal Code § 13515.30).

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First Amendment Assemblies

466.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

466.2 POLICY

The Newport Beach Police Department respects the rights of people to peaceably assemble. It is the policy of this department not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property.

466.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills and leafleting, and loitering. However, officers shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors officers may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and prevent the destruction of property.

Officers should not:

(a) Engage in assembly or demonstration-related discussion with participants.

(b) Harass, confront or intimidate participants.

(c) Seize the cameras, cell phones or materials of participants or observers unless an officer is placing a person under lawful arrest.

Supervisors should continually observe department members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

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466.3.1 PHOTOGRAPHS AND VIDEO RECORDINGS

Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assistance in evaluating department performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct.

Photographs and videos will not be used or retained for the sole purpose of collecting or maintaining information about the political, religious, or social views of associations, or the activities of any individual, group, association, organization, corporation, business, or partnership, unless such information directly relates to an investigation of criminal activities and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

466.4 UNPLANNED EVENTS

When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to Dispatch, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

466.5 PLANNED EVENT PREPARATION

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

466.5.1 INFORMATION GATHERING AND ASSESSMENT

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.

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- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

466.5.2 OPERATIONAL PLANS

An operational planning team with responsibility for event planning and management should be established. The planning team should develop an operational plan for the event.

The operational plan will minimally provide for:

(a) Command assignments, chain of command structure, roles and responsibilities.

(b) Staffing and resource allocation.

(c) Management of criminal investigations.

(d) Designation of uniform of the day and related safety equipment (e.g., helmets, shields).

(e) Deployment of specialized resources.

(f) Event communications and interoperability in a multijurisdictional event.

(g) Liaison with demonstration leaders and external agencies.

(h) Liaison with City government and legal staff.

(i) Media relations.

(j) Logistics: food, fuel, replacement equipment, duty hours, relief and transportation.

(k) Traffic management plans.

(l) First aid and emergency medical service provider availability.

(m) Prisoner transport and detention.

(n) Review of policies regarding public assemblies and use of force in crowd control.

(o) Parameters for declaring an unlawful assembly.

(p) Arrest protocol, including management of mass arrests.

(q) Protocol for recording information flow and decisions.

(r) Rules of engagement, including rules of conduct, protocols for field force extraction and arrests, and any authorization required for the use of force.

(s) Protocol for handling complaints during the event.

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(t) Parameters for the use of body-worn cameras and other portable recording devices.

466.5.3 MUTUAL AID AND EXTERNAL RESOURCES

The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Outside Agency Assistance Policy).

466.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS

If a public gathering or demonstration remains peaceful and nonviolent, and there is no reasonably imminent threat to persons or property, the Incident Commander should generally authorize continued monitoring of the event.

Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, he/she or the authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group.

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.

466.7 USE OF FORCE

Use of force is governed by current department policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and conducted energy devices should be considered only when the participants' conduct reasonably appears to present the potential to harm officers, themselves or others, or will result in substantial property loss or damage (see the Control Devices and Techniques and the Conducted Energy Device policies).

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Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

466.8 ARRESTS

The Newport Beach Police Department should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been, or reasonably appear likely to be, unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

(a) Reasonable measures to address the safety of officers and arrestees.

(b) Dedicated arrest, booking and report writing teams.

(c) Timely access to medical care.

(d) Timely access to legal resources.

(e) Timely processing of arrestees.

(f) Full accountability for arrestees and evidence.

(g) Coordination and cooperation with the prosecuting authority, jail and courts (see the Cite and Release Policy).

466.9 MEDIA RELATIONS

The Press Information Officer should use all available avenues of communication, including press releases, briefings, press conferences, and social media to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

466.9.1 MEDIA ACCESS

If officers close the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest, or rally where individuals are engaged in a protected activity pursuant to the First Amendment, officers shall comply with the requirements of Penal Code § 409.7 relating to media access (i.e., access to closed areas, obtaining information) (Penal Code § 409.7).

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466.10 DEMOBILIZATION

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.

466.11 POST EVENT

The Incident Commander should designate a member to assemble full documentation of the event, to include the following:

(a) Operational plan

(b) Any incident logs

(c) Any assignment logs

(d) Vehicle, fuel, equipment and supply records

(e) Incident, arrest, use of force, injury and property damage reports

(f) Photographs, audio/video recordings, Dispatch records/tapes

(g) Media accounts (print and broadcast media)

466.11.1 AFTER-ACTION REPORTING

The Incident Commander should work with City legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following:

(a) Date, time and description of the event

(b) Actions taken and outcomes (e.g., injuries, property damage, arrests)

(c) Problems identified

(d) Significant events

(e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

466.12 TRAINING

Department members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management (Penal Code § 13514.5). The Department should, when practicable, train with its external and mutual aid partners.

Officers should also receive periodic training on the standards for the use of kinetic energy projectiles and chemical agents for crowd control purposes as identified in Penal Code § 13652.

466.13 USE OF KINETIC ENERGY PROJECTILES AND CHEMICAL AGENTS FOR CROWD CONTROL

Kinetic energy projectiles and chemical agents for crowd control purposes shall only be deployed by officers who have received POST training for crowd control if the use is objectively reasonable

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to defend against a threat to life or serious bodily injury to any individual, including an officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control and in accordance with the following requirements of Penal Code § 13652.

(a) De-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed.

(b) Repeated, audible announcements are made announcing the intent to use kinetic energy projectiles and chemical agents and the type to be used, when objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.

(c) Individuals are given an objectively reasonable opportunity to disperse and leave the scene.

(d) An objectively reasonable effort has been made to identify individuals engaged in violent acts and those who are not, and kinetic energy projectiles or chemical agents are targeted toward those individuals engaged in violent acts. Projectiles shall not be aimed indiscriminately into a crowd or group of individuals.

(e) Kinetic energy projectiles and chemical agents are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.

(f) Officers shall minimize the possible incidental impact of their use of kinetic energy projectiles and chemical agents on bystanders, medical personnel, journalists, or other unintended targets.

(g) An objectively reasonable effort has been made to extract individuals in distress.

(h) Medical assistance is promptly provided, if properly trained personnel are present, or procured, for injured persons, when it is reasonable and safe to do so.

(i) Kinetic energy projectiles shall not be aimed at the head, neck, or any other vital organs.

(j) Kinetic energy projectiles or chemical agents shall not be used solely due to any of the following:

1. A violation of an imposed curfew.
2. A verbal threat.
3. Noncompliance with a law enforcement directive.

(k) If the chemical agent to be deployed is tear gas, only an Incident Commander at the scene of the assembly, protest, or demonstration may authorize its use.

466.13.1 USE SUMMARY

The Patrol Division Commander or the authorized designee should ensure that a summary of each deployment of kinetic energy projectiles or chemical agents for crowd control purposes is prepared and published on the department website within 60 days of each incident. The time frame may be extended for another 30 days where just cause is demonstrated, but no longer than 90 days from the time of the incident. The summary shall be limited to the information known to the Department at the time of the report and include the information required in Penal Code § 13652.1.

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466.14 ANTI-REPRODUCTIVE RIGHTS CALLS

Officer response to public assemblies or demonstrations relating to anti-reproductive rights should be consistent with this policy (Penal Code § 13778.1).

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Chapter 5 - Traffic Operations

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Traffic Function and Responsibility

500.1 PURPOSE AND SCOPE

The ultimate goal of traffic law enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on accident data, enforcement activity records, traffic volume, and traffic conditions. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in accident situations, but also in terms of traffic-related needs.

500.2 TRAFFIC OFFICER DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the Newport Beach Police Department. Information provided by the California Statewide Integrated Traffic Reporting System (SWITRS) is a valuable resource for traffic accident occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of accident causing violations during high accident hours and at locations of occurrence. All officers will take directed enforcement action on request, and random enforcement action when appropriate against violators as a matter of routine. All officers shall maintain high visibility while working general enforcement, especially at high accident locations.

Other factors to be considered for deployment are requests from the public, construction zones or special events.

500.3 ENFORCEMENT

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance (Vehicle Code § 41603). The visibility and quality of an officer’s work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

500.3.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant, especially in the case of inadvertent violations.

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500.3.2 CITATIONS

Citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

(a) Explanation of the violation or charge

(b) Court appearance procedure including the optional or mandatory appearance by the motorist

(c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court

500.3.3 PHYSICAL ARREST

Physical arrest can be made on a number of criminal traffic offenses outlined in the Vehicle Code or Penal Code. These physical arrest cases usually deal with, but are not limited to:

(a) Vehicular manslaughter

(b) Felony and misdemeanor driving under the influence of alcohol/drugs

(c) Felony or misdemeanor hit-and-run

(d) Refusal to sign notice to appear

(e) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances

500.4 SUSPENDED OR REVOKED DRIVERS LICENSES

If an officer contacts a traffic violator for driving on a suspended or revoked license, the officer may issue a traffic citation pursuant to Vehicle Code § 14601.

If a computer check of a traffic violator's license status reveals a suspended or revoked driver license and the traffic violator still has his or her license in possession, the license shall be seized by the officer. The officer shall verbally advise the traffic violator of the suspension or revocation and issue the citation. The officer will be responsible for filling out the Verbal Notice form (DMV form DL-310) and causing that form and license to be forwarded to the Department of Motor Vehicles.

500.5 TRAFFIC DIVISION DUTY REGULATIONS

REPORTING FOR DUTY

Traffic officers shall report for duty at the assigned time. They shall report in full uniform and be prepared for duty, having obtained necessary items for that duty day.

BRIEFING

If not assigned to attend a mandatory briefing, traffic officers shall be responsible for briefing themselves, which will include a review of all briefing boards. Officers shall also complete the following office duties during their regularly scheduled shift:

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- Check employee folder
- Check e-mail

Officers shall respond to the field upon completion of their briefing unless they are directed otherwise or receive approval from a Traffic Division supervisor or the Watch Commander.

POP

Motorcycle officers are responsible for their assigned POP areas and shall be proactive and responsive to concerns in their assigned areas. Motorcycle officers shall not leave the City until the completion of their shift, unless assigned a call or with the approval of a supervisor.

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Traffic Collision Reporting

502.1 PURPOSE AND SCOPE

The Newport Beach Police Department prepares traffic collision reports in compliance with the California Highway Patrol Collision Investigation Manual (CIM) and as a public service makes traffic collision reports available to the community with some exceptions.

502.2 RESPONSIBILITY

The Patrol/Traffic Division Commander will be responsible for distribution of the Collision Investigation Manual. The Patrol/Traffic Division Commander will receive all changes in the state manual and ensure conformity with this policy.

502.3 TRAFFIC COLLISION REPORTING

All traffic collision reports taken by members of this department shall be forwarded to the Traffic Division for approval. Once approved, the reports shall be forwarded to the Records section for data entry into the Records Management System. The Crime Analysis Unit will be responsible for monthly and quarterly reports on traffic collision statistics to be forwarded to the Patrol/Traffic Division Commander or other persons as required.

502.4 REPORTING SITUATIONS

502.4.1 TRAFFIC COLLISIONS INVOLVING POLICE / CITY VEHICLES

Any employee who is in a traffic collision while on duty or while operating a City vehicle will immediately notify the on-duty Field Supervisor or Watch Commander. If the collision involves a supervisor, then the responding, higher ranking supervisor will have overall responsibility for the investigation.

Traffic collision investigation reports shall be taken when a City-owned, leased or contracted vehicle is involved in a traffic collision upon a roadway, highway or private property wherein any damage or injury results.

Collision reports involving a City employee shall be reviewed by the Driving Review Board and stamped either "Send to CHP" or "Do Not Send to CHP".

Reports shall be stamped "Send To CHP" when the collision involves a City vehicle and State SR-1 reporting requirements are applicable.

When a "City Property Involved" (CPI) collision report is taken for the purpose of internal review and documentation and none of the State SR-1 reporting requirements exist, reports should be stamped "Do Not Send To CHP" and processed accordingly.

Photographs of the collision scene, vehicle damage, and other damage (if any) shall be taken at all "City Property Involved" (CPI) collisions.

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502.4.2 INVESTIGATION OF COLLISION

In all Newport Beach Police Department vehicle collisions where the damage is minor and preliminary investigation indicates that the driver of the police vehicle is not in violation, the Newport Beach Police Department will conduct the traffic collision investigation. If the collision involves moderate to major damage, injury, or it appears that the driver of the police vehicle is in violation, the California Highway Patrol may investigate the collision. This request will be initiated by the Patrol/Traffic Division Commander or the Watch Commander.

When an employee of this department, either on-duty or off-duty, is involved in a traffic collision within the jurisdiction of the Newport Beach Police Department resulting in a serious injury or fatality, the Patrol/Traffic Division Commander or the Watch Commander may notify the California Highway Patrol for assistance. The term serious injury is defined as any injury that may result in a fatality.

Any on-duty department employee who is involved in or who has participated in the events leading to a traffic collision shall:

- Request a supervisor (or if a supervisor is the involved party, someone of higher rank and preferably in their Chain of Command)
- Request another unit for reporting purposes. If the collision involves a supervisor, then the responding, higher ranking supervisor will have overall responsibility for the investigation.

If a Newport Beach Police Department vehicle is involved in a traffic collision in another jurisdiction, either that jurisdiction or the California Highway Patrol will take the traffic collision report. This decision will be made by the police agency which has jurisdiction for the area. It shall be the employee's responsibility to notify the agency for that jurisdiction and to notify the NBPD Watch Commander by telephone as soon as practical.

502.4.3 TRAFFIC COLLISIONS WITH OTHER CITY EMPLOYEES OR OFFICIALS

The Patrol/Traffic Division Commander or on-duty Watch Commander may request assistance from the California Highway Patrol for the investigation of any traffic collision involving any City official or employee where a serious injury or fatality has occurred or when, in their judgment, it is appropriate to do so.

502.4.4 TRAFFIC COLLISIONS ON PRIVATE PROPERTY

In compliance with the Collision Investigation Manual (CIM), traffic collision reports should not be taken for traffic collisions occurring on private property, with the following exceptions.

A traffic collision report or investigation, whichever is applicable, will be completed for the following types of private property collisions:

- Hit-and-Run (injury or non-injury)
- Injury collisions (Report or Investigation)
- Suspected DUI driver involved

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- Unlicensed or suspended driver involved
- City Property Involved (CPI)

502.4.5 TRAFFIC COLLISIONS ON ROADWAYS OR HIGHWAYS
Traffic collision reports shall be taken when they occur on a roadway or highway within the jurisdiction of this department under any of the following circumstances:

(a) When there is a death or injury to any person(s) involved in the collision

(b) When there is an identifiable violation of the Vehicle Code and a reference exchange is not completed

(c) At the discretion of the investigating officer, when a report is requested by any involved driver

(d) When City Property is involved or the potential for City liability exists

502.5 TRAFFIC DIVISION CALL-OUT PROCEDURE

The purpose of this policy is to establish a call-out procedure for incidents which require the response of trained personnel from the Traffic Division. In the case of a call-out, the Watch Commander shall cause notification in the following order. Once one individual is notified, that person shall be responsible for any further notifications and for ensuring a proper response. Call-outs shall be made on all major traffic collisions.

(a) A major traffic collision is defined as:

1. Fatality occurs
2. Probable fatality will result
3. Serious felonies have been committed
4. Substantial City liability is apparent

(b) Call-out order shall be:

1. Accident Investigation (AI) Sergeant
2. Traffic Services Commander (Lieutenant)
3. Motor Sergeant
4. Traffic Investigator
5. Traffic Division Commander

(c) The Traffic Services Commander and the Patrol/Traffic Division Commander shall be immediately notified of all fatal collisions, and any "major traffic collision" involving a member of this Department.

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502.6 TRAFFIC COLLISION INFORMATION FORM

If individuals involved in a property damage only collision insist on exchanging required information in lieu of a formal collision report, the parties will be allowed to do so. Officers should use NBPD Form 4.3.3 which is a multi-page form printed on pressure sensitive paper. Officers will:

- When valid Driver's Licenses and/or valid registration certificates are not available for identification and exchange information, the officer will attempt to verify the identity and license/registration status of the involved party and vehicle through available systems
- To expedite this procedure, the officer will complete and distribute the pressure sensitive copies from page 1 to the involved parties
- If a party refuses to identify him/herself at the scene, officers will take action under section 20002(a) and 40303(b)(8) of the California Vehicle Code

However, officers shall not solicit individuals to exchange required information in lieu of a formal collision report.

502.7 PHOTOGRAPHING

Photographs shall be taken of traffic collisions involving:

- Fatality
- City vehicle
- Potential City liability
- Hit and Run
- Serious Injury

Note: Photographs should be taken whenever deemed necessary.

502.8 TYPES OF REPORTS

COLLISION INVESTIGATION DOCUMENTATION

A collision shall be documented as an **investigation** when one or more of the following apply:

a. A motor vehicle traffic collision results in the death of a person on or off a highway.

b. A motor vehicle traffic collision results in personal injury on or off the highway.

1. The investigating officer will be responsible for a further investigation of the injuries of every party who is transported to a medical facility for treatment to properly document the severity of the injuries.

c. Supporting data is required for prosecution of either a felony or misdemeanor. The requirement for an investigation should be based upon the needs of the Traffic Detective and/or prosecuting attorney.

d. City, county, state, or federal vehicle involved in a collision with a loss in excess of $750.00 or when a second vehicle is involved.

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e. Hit and Run collisions with workable information.

f. Circumstances of collision and evidence suggest potential city liability.

g. When a supervisor requests an investigation.

EXCEPTION: If the injury is a "complaint of pain" type, and does not appear to be of a serious nature at the time of the collision investigation, and the injured party is NOT taken to the hospital by ambulance, the collision may be documented as a REPORT.

COLLISION INVESTIGATION FORMAT

A collision **investigation** consists of both front and back page of the CHP form 555, CHP 555 Page 3 - Injured/Witness/Passengers and CHP 556 €š“ Narrative/Supplemental. Extra face sheets shall be used when more than three parties are involved. A separate sketch shall also be included.

The following are the headings to be used for the collision investigation format:

1. FACTS

a. Notification

b. Scene

c. Parties

d. Physical Evidence

e. Hit and Run

f. Hazardous Material

g. Other Factual Information

2. Statements

3. Opinions and Conclusions

a. Summary

b. Area of Impact

c. Intoxication

d. Cause

4. Recommendations

COLLISION REPORT DOCUMENTATION

A collision shall be documented as a **report** when one or more of the following conditions apply, unless a supervisor determines the collision should be documented as an INVESTIGATION:

1. A motor vehicle collision, on or off highway, involving a complaint of pain injury only and does not appear to be a serious nature at the time of the collision investigation and the injured party is not taken to the hospital by ambulance.

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2. A collision involves property (including vehicles) damage only.

3. The collision involves property (including motor vehicles) damage and a citation is completed

4. A late-reported injury collision unless otherwise directed by the on-duty supervisor. A late-reported fatal collision shall be documented as an investigation.

5. Hit-and-Run collisions where there is no workable information.

COLLISION REPORT FORMAT

A collision **report** will consist of front and back page of the CHP form 555, CHP 555 Page 3-Injured/Witness/Passengers and CHP 556€š“ Narrative/Supplemental. A sketch shall be drawn and shall reflect the reporting Officer's opinion of how the collision occurred.

The following are the headings to be used for the collision report format:

1. Notification

2. Statements

3. Summary

4. Area of Impact

5. Cause

TRAFFIC COLLISION "COUNTER REPORT"

A counter report is a **property damage only** collision reported by an involved party at the police department. Counter reports (CHP 555-03), Traffic Collision Report €š“ Property Damage Only, will be made available at the Front Desk of the Newport Beach Police Department. Counter reports may be made by one or more of the involved drivers; however an officer or civilian Front Desk officer may assist. Counter reports shall not include a primary collision factor and are not submitted to the State of California (refer to VC section 20015). Counter reports will not be taken for private property collisions. The words "Counter Report" must be entered in the special conditions box listed on the face sheet of the report.

TRAFFIC COLLISION "LATE REPORT"

A late traffic collision report is a fatal or injury collision report where the involved vehicles and parties are no longer at the scene of the collision and documentation is requested at a location away from the collision scene. Investigating officers shall determine if the collision was reported after the first opportunity to make such a report before indicating a late-report status. The words "Late Report" must be entered in the special conditions box listed on the face page sheet of the report.

COLLISIONS INVOLVING SCHOOL BUSES

The collision involves a school bus. If there are injuries, or if pupils on the bus are in the twelfth grade or below, CHP will investigate per CVC 12517.1. Newport Beach Police Department personnel will take all other bus collision reports.

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Vehicle Impound Hearings

512.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

512.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the Newport Beach Police Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code § 22650(a); Vehicle Code § 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

512.2.1 HEARING PROCEDURES

The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(d)). The Accident Investigation Sergeant or the Parking Control Supervisor will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code § 22851.3(e)(2) ; Vehicle Code § 22852(d)).

Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with the Department.

After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The decision shall be documented on a Post-Storage Hearing form [3.4.2.]. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded (Vehicle Code §14602.6(b) and 14602.8(b)).

Aside from those mitigating circumstances enumerated in the Vehicle Code, the registered owner's lack of actual knowledge that the driver to whom the vehicle was loaned was not validly licensed may constitute a mitigating circumstance under Vehicle Code §§ 14602.6(b) or 14608(b),

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warranting release of the vehicle. This mitigating circumstance exception is not limited to situations where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

The legislative intent and this department's policy is to prevent unlicensed driving pursuant to Vehicle Code §14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

(a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.

1. If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.

(b) If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Department's expense (Vehicle Code § 22852(e)).

(c) If a decision is made that the vehicle was not stored or impounded in a lawful manner or within department policy, and the vehicle has been released with fees having been paid, the receipt for such fees and the completed Post-Storage Hearing form shall be forwarded to the Executive Officer. The hearing officer will recommend to the Executive Officer that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.

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Impaired Driving

514.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence (DUI).

514.2 POLICY

The Newport Beach Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of California's impaired driving laws.

514.3 INVESTIGATIONS

Officers should not enforce DUI laws to the exclusion of their other duties unless specifically assigned to DUI enforcement. All officers are expected to enforce these laws with due diligence.

The Traffic Lieutenant will develop and maintain, in consultation with the prosecuting attorney, report forms with appropriate checklists to assist investigating officers in documenting relevant information and maximizing efficiency. Any DUI investigation will be documented using these forms. Information documented elsewhere on the form does not need to be duplicated in the report narrative. Information that should be documented includes, at a minimum:

(a) The field sobriety tests (FSTs) administered and the results.

(b) The officer's observations that indicate impairment on the part of the individual, and the officer's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).

(c) Sources of additional information (e.g., reporting party, witnesses) and their observations.

(d) Information about any audio and/or video recording of the individual's driving or subsequent actions.

(e) The location and time frame of the individual's vehicle operation and how this was determined.

(f) Any prior related convictions in California or another jurisdiction.

514.4 FIELD TESTS

The Traffic Lieutenant should identify standardized FSTs and any approved alternate tests for officers to use when investigating violations of DUI laws.

514.5 CHEMICAL TESTS

A person implies consent to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Vehicle Code § 23612):

(a) The person is arrested for driving a vehicle while under the influence, pursuant to Vehicle Code § 23152.

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(b) The person is under 21 years of age and is arrested by an officer having reasonable cause to believe that the person's blood alcohol content is 0.05 or more (Vehicle Code § 23140).

(c) The person is under 21 years of age and detained by an officer having reasonable cause to believe that the person was driving a vehicle while having a blood alcohol content of 0.01 or more (Vehicle Code § 23136).

(d) The person was operating a vehicle while under the influence and proximately caused bodily injury to another person (Vehicle Code § 23153).

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

514.5.1 STATUTORY NOTIFICATIONS

Officers requesting that a person submit to chemical testing shall provide the person with the mandatory warning pursuant to Vehicle Code § 23612(a)(1)(D) and Vehicle Code § 23612(a)(4).

514.5.2 CHOICE OF TESTS

Officers shall respect a viable choice of chemical test made by an arrestee, as provided for by law (e.g., breath will not be acceptable for suspected narcotics influence).

A person arrested for DUI has the choice of whether the test is of the person's blood or breath, and the officer shall advise the person that the person has that choice. If the person arrested either is incapable, or states that the person is incapable, of completing the chosen test, the person shall submit to the remaining test.

If the person chooses to submit to a breath test and there is reasonable cause to believe that the person is under the influence of a drug or the combined influence of alcohol and any drug, the officer may also request that the person submit to a blood test. If the person is incapable of completing a blood test, the person shall submit to and complete a urine test (Vehicle Code § 23612(a)(2)(C)).

514.5.3 BREATH SAMPLES

The Traffic Lieutenant or designee should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested, and that a record of such service and testing is properly maintained.

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the Traffic Lieutenant or designee.

When the arrested person chooses a breath test, the handling officer shall advise the person that the breath-testing equipment does not retain a sample, and the person may, if desired, provide a blood specimen, which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614).

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The officer should also require the person to submit to a blood test if the officer has a clear indication that a blood test will reveal evidence of any drug or the combined influence of an alcoholic beverage and any drug. Evidence of the officer's belief shall be included in the officer's report (Vehicle Code § 23612(a)(2)(C)).

514.5.4 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (Vehicle Code § 23158). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

Officers should inform an arrestee that if the arrestee chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored, and transported as required by the testing facility.

If an arrestee cannot submit to a blood draw because the arrestee has a bleeding disorder or has taken medication that inhibits coagulation, the arrestee shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

514.5.5 PRELIMINARY ALCOHOL SCREENING

Officers may use a preliminary alcohol screening (PAS) test to assist in establishing reasonable cause to believe a person is DUI. The officer shall advise the person that the PAS test is being requested to assist in determining whether the person is under the influence of alcohol or drugs, or a combination of the two. Unless the person is under the age of 21, the person shall be advised that the PAS test is voluntary. The officer shall also advise the person that submitting to a PAS test does not satisfy the person's obligation to submit to a chemical test as otherwise required by law (Vehicle Code § 23612).

514.5.6 PRELIMINARY ALCOHOL SCREENING FOR A PERSON UNDER AGE 21

If an officer lawfully detains a person under 21 years of age who is driving a motor vehicle and the officer has reasonable cause to believe that the person has a blood alcohol content of 0.01 or more, the officer shall request that the person take a PAS test to determine the presence of alcohol in the person, if a PAS test device is immediately available. If a PAS test device is not immediately available, the officer may request the person to submit to chemical testing of the person's blood, breath, or urine, conducted pursuant to Vehicle Code § 23612 (Vehicle Code § 13388).

If the person refuses to take or fails to complete the PAS test or other chemical test, or if the result of either test reveals a blood alcohol content of 0.01 or more, the officer shall proceed to serve the person with a notice of order of suspension pursuant to this policy (Vehicle Code § 13388).

514.6 REFUSALS

When an arrestee refuses to provide a viable chemical sample, officers should:

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(a) Advise the arrestee of the requirement to provide a sample (Vehicle Code § 23612).

(b) Audio- and/or video-record the admonishment when it is practicable.

(c) Document the refusal in the appropriate report.

514.6.1 STATUTORY NOTIFICATIONS UPON REFUSAL

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of order of suspension upon the arrestee and take possession of any state-issued license to operate a motor vehicle that is held by that individual (Vehicle Code § 23612(e); Vehicle Code § 23612(f)).

514.6.2 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 (Penal Code § 1524).

(b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts such as a lengthy time delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

514.6.3 FORCED BLOOD SAMPLE

If an arrestee indicates by word or action that the person 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 the person's duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the individual to submit to such a sample without physical resistance.

1. This dialogue should be recorded on audio and/or video if practicable.

(d) Ensure that the blood sample is taken in a medically approved manner.

(e) Ensure the forced blood draw is recorded on audio and/or video when practicable.

(f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:

1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.

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2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.

(g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

514.7 ARREST AND INVESTIGATION

514.7.1 WARRANTLESS ARREST

In addition to the arrest authority granted to officers pursuant to Penal Code § 836, an officer may make a warrantless arrest of a person that the officer has reasonable cause to believe has been driving under the influence of an alcoholic beverage or any drug, or under the combined influence of the same when (Vehicle Code § 40300.5):

(a) The person is involved in a traffic crash.

(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.

(e) The person may destroy or conceal evidence of a crime unless immediately arrested.

514.7.2 OFFICER RESPONSIBILITIES

The officer serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):

(a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver’s license to the Department of Motor Vehicles (DMV).

(b) Forward a sworn report to DMV that contains the required information in Vehicle Code § 13380.

514.8 RECORDS SECTION RESPONSIBILITIES

The Records Manager or designee will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney’s office.

514.9 ADMINISTRATIVE HEARINGS

The Records Manager will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to DMV.

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514.10 TRAINING

The Training Manager should ensure that officers participating in the enforcement of DUI laws receive regular training. Training should include, at minimum, current laws on impaired driving, investigative techniques and rules of evidence pertaining to DUI investigations. The Training Manager should confer with the prosecuting attorney's office and update training topics as needed.

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Driving Under The Influence Cost Recovery Program - Emergency Response Billing

515.1 LEGAL AUTHORITY

The Government Code authorizes the public agencies to recover their costs of emergency response under 53150 et seq. Wherein a driver's maximum liability is $12,000 for reimbursement for response costs related to incidents caused by a driver who is under the influence of an alcoholic beverage and/or drug.

515.2 PURPOSE

The purpose of this section is to provide guidance and direction to appropriate personnel responsible for Driving Under the Influence (DUI) incident response cost recovery processes.

515.3 POLICY

(a) The Newport Beach Police Department will seek to recover DUI incident-related costs from a driver who is under the influence of an alcoholic beverage and/or drugs.

(b) Cost Recovery Criteria. The Department will seek to recover DUI incident-related costs for alcohol or a combination of alcohol and drugs provided all the following apply:

1. An arrest was made for a violation of California Vehicle Code (CVC) Sections 23152, 23153, or a greater offense involving alcohol and/or drugs.
2. The arrested party was determined by the investigating officer to have caused the traffic collision.

(c) In addition to the above criteria, one of the following must also apply to bill upon arrest:

1. A supporting evidential (Preliminary Alcohol Screening is insufficient) test with a Blood Alcohol Concentration (BAC) result of at least .08% or greater (breath tests must have two readings of at least .08%).
2. A commercial driver while driving a commercial vehicle has a supporting evidential test with a BAC result of at least .04% or greater.

(d) In addition to the above criteria in paragraph 3.c.(1) and 3.c.(2), a conviction for CVC Sections 23152, 23153, or greater offense is required when one of the following applies:

1. A BAC test returns under .08%.
2. A chemical test is positive for drugs only.
3. There is no supporting BAC test or drug test (e.g., a refusal).

(e) If a case must wait until conviction to meet the DUI Cost Recovery Program criteria:

1. It is considered a conviction in this program when a case results in a plea of nolo contendre (no contest) to the original arrest charges of CVC Sections 23152, 23153, or greater offense involving alcohol and/or drugs.

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2. It is considered a conviction for a plea of guilty, finding of guilty after a bench trial by a judge, or a guilty verdict after a jury trial by jury.
3. It is not considered a conviction in this program when a case is plea bargained to a lesser offense.

515.4 OFFICER RESPONSIBILITIES

(a) The Traffic Division shall develop procedures to ensure an Emergency Response Cost Statement (Form 2.10.1), is prepared for each arrest that meets the cost recovery criteria. The Emergency Response Cost Statement is located, under Forms and Reports.

(b) Completion of Emergency Response Cost Statement (Form 2.10.1)

1. Completed Emergency Response Cost Statement forms, shall be completed by the officer completing the traffic collision report and submitted to the Patrol/Traffic administrative assistant. The administrative assistant shall then submit the Emergency Response Cost Statement to the Revenue Division at the City of Newport Beach.
2. Name of Responsible Party. Include the offender's name, address, arrest date.
3. Location. Include the location of the traffic collision and arrest.
4. Recording Total Staff Hours. Record the total number of staff hours involved in the incident response.
    i. Record staff hours to the nearest fifteen minutes. For example: one hour, thirty minutes = 1:30.
        - NOTE: Half-hour increments are recorded as :30, not :50.
    ii. Record the number of staff involved in the incident response. When only one officer is involved, write their name and ID number under each respective category along with the appropriate hours. When more than one officer is involved, list the total number of officers and the total number of hours for that rank.

(c) Staff Activity. The following activities will be included in total staff time billing for which offenders are liable:

1. Response Time.
2. On-Scene Investigation.
3. Follow-up Investigation.
4. Report Writing.
5. Vehicle Storage.
6. Field Sobriety Testing.
7. Transportation.
8. Booking.
9. Chemical Testing.

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10. Traffic Control.

(d) Other Involved Staff. Include time expended for incident investigation, vehicle storage, or in-custody activity by officers-in-charge, sergeants, lieutenants, or captains. Do not include their supervision time for these activities.

(e) Cost per hour and Total Costs. The total cost will be calculated by the Revenue Division at the City of Newport Beach.

515.5 INTERNAL REVIEW

If the billing amount is challenged, the Special Events / Traffic Supervisor shall review the submitted information to ensure its accuracy and can make their determination known via email to the responsible party.

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Traffic Citations

516.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

516.2 RESPONSIBILITIES

The Traffic Lieutenant shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Records Section shall be responsible for the supply and accounting of all traffic citations issued to employees of this department.

516.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this department do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued (Vehicle Code § 40500(d)). Any request from a recipient to dismiss a citation shall be referred to the Traffic Lieutenant. Upon a review of the circumstances involving the issuance of the traffic citation, the Traffic Lieutenant may request the Patrol Division Commander to recommend dismissal of the traffic citation. If approved, the citation will be forwarded to the appropriate court with a request for dismissal. All recipients of traffic citations whose request for the dismissal of a traffic citation has been denied shall be referred to the appropriate court.

Should an officer determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate the officer may request the court to dismiss the citation.

516.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed, but not issued. All copies of the citation shall be presented to a supervisor to approve the voiding of the citation. The citation and copies shall then be forwarded to the Patrol/Traffic Division Commander.

516.5 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and in need of correction, the officer issuing the citation shall submit the citation and a letter requesting a specific correction to his/her immediate supervisor. The citation and letter shall then be forwarded to the Patrol/Traffic Division Commander. The Patrol/Traffic Division Commander or designee shall prepare a letter of correction to the court having jurisdiction and to the recipient of the citation.

516.6 DISPOSITION OF TRAFFIC CITATIONS

The court and file copies of all traffic citations issued by members of this department shall be forwarded to the employee’s immediate supervisor for review. The citation copies shall then be filed with the Records Section.

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Upon separation from employment with this department, all employees issued traffic citation books shall return any unused citations to the Records Section.

516.7 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE

Disposition of notice of parking violation appeals is conducted pursuant to Vehicle Code § 40215.

516.7.1 APPEAL STAGES

Appeals may be pursued sequentially at three different levels (Vehicle Code § 40215; Vehicle Code § 40230):

(a) Administrative reviews are conducted by the Traffic Bureau who will review written/ documentary data. Requests for administrative reviews are available at the front desk or Traffic Bureau of the Newport Beach Police Department. These requests are informal written statements outlining why the notice of parking violation should be dismissed. Copies of documentation relating to the notice of parking violation and the request for dismissal must be mailed to the current mailing address of the processing agency.

(b) If the appellant wishes to pursue the matter beyond administrative review, an administrative hearing may be conducted in person or by written application, at the election of the appellant. Independent referees review the existent administrative file, amendments, and/or testimonial material provided by the appellant and may conduct further investigation or follow-up on their own.

(c) If the appellant wishes to pursue the matter beyond an administrative hearing, a Superior Court review may be presented in person by the appellant after an application for review and designated filing fees have been paid to the Superior Court of California.

516.7.2 TIME REQUIREMENTS

Administrative review or appearance before a hearing examiner will not be provided if the mandated time limits are not adhered to by the violator.

(a) Requests for an administrative review must be postmarked within 21 calendar days of issuance of the notice of parking violation, or within 14 calendar days of the mailing of the Notice of Delinquent Parking Violation (Vehicle Code § 40215(a)).

(b) Requests for administrative hearings must be made no later than 21 calendar days following the notification mailing of the results of the administrative review (Vehicle Code § 40215(b)).

(c) An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to Vehicle Code § 40200 - 40225. The person requesting the hearing may request one continuance, not to exceed 21 calendar days (Vehicle Code § 40215).

(d) Registered owners of vehicles may transfer responsibility for the violation via timely affidavit of non-liability when the vehicle has been transferred, rented or under certain other circumstances (Vehicle Code § 40209; Vehicle Code § 40210).

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516.7.3 COSTS

(a) There is no cost for an administrative review.

(b) Appellants must deposit the full amount due for the citation before receiving an administrative hearing, unless the person is indigent, as defined in Vehicle Code § 40220, and provides satisfactory proof of inability to pay (Vehicle Code § 40215).

(c) An appeal through Superior Court requires prior payment of filing costs, including applicable court charges and fees. These costs will be reimbursed to the appellant in addition to any previously paid fines if appellant's liability is overruled by the Superior Court.

516.7.4 DEFECTIVE PARKING METER CITATION COMPLAINTS

Any employee receiving a complaint alleging that a faulty parking meter is defective shall:

- If appropriate, complete a Quest Work Request using the Quest Work Request system on the City Intranet.
- If a citation was issued, explain to the complainant that he or she must appeal the parking citation per the instructions on the citation.

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Disabled Vehicles

520.1 PURPOSE AND SCOPE

Vehicle Code § 20018 provides that all law enforcement agencies having responsibility for traffic enforcement may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

520.2 OFFICER RESPONSIBILITY

When an on-duty officer observes a disabled vehicle on the roadway, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer to respond for assistance as soon as practical.

520.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by department personnel will be contingent on the time of day, the location, the availability of department resources, and the vulnerability of the disabled motorist.

520.3.1 MECHANICAL REPAIRS

Department personnel shall not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

520.3.2 RELOCATION OF DISABLED VEHICLES

The relocation of disabled vehicles by members of this department by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

520.3.3 RELOCATION OF DISABLED MOTORIST

The relocation of a disabled motorist should only occur with the person’s consent and should be suggested when conditions reasonably indicate that immediate movement is necessary to mitigate a potential hazard. The department member may stay with the disabled motorist or transport him/her to a safe area to await pickup.

520.4 PUBLIC ACCESS TO THIS POLICY

This written policy is available upon request.

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72-Hour Parking Violations

524.1 PURPOSE AND SCOPE

This policy provides procedures for the marking, recording, and storage of vehicles parked in violation of the Name of your jurisdiction: City Ordinance regulating 72-hour parking violations and abandoned vehicles under the authority of Vehicle Code § 22669.

524.2 MARKING VEHICLES

Vehicles suspected of being in violation of the City of Newport Beach 72-Hour Parking Ordinance shall be marked and noted as follows:

FIRST INVESTIGATION

When a complaint of a vehicle abandoned on public property is received, the assigned employee shall:

- Determine if the vehicle is reported stolen Determine the registered owner and make a reasonable attempt to advise the registered owner of 12.40.040 NBMC
- Mark the vehicle for the 72-Hour violation Complete an Abandoned vehicle Report [4.29] and submit it with the DFAR

SECOND INVESTIGATION

On the fourth day after the first investigation, the employee assigned to the second investigation shall:

- If the vehicle has not been moved:
  (a) Determine if the vehicle is reported stolen
  (b) Cite for 12.40.040 NBMC
  (c) Attach a completed 72-Hour Warning Card [4.7.1] to the vehicle
  (d) Complete the "Second Investigation" section of the original Abandoned Vehicle Report and submit it with the DFAR
- If the vehicle has been moved:
  (a) Complete the "Second Investigation" section of the original Abandoned Vehicle Report and submit it with the DFAR

THIRD INVESTIGATION

After at least 48 hours the traffic officer or parking control officer assigned to the third investigation shall:

- If the vehicle has not been moved:
  (a) Determine if the vehicle is reported stolen

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(b) Complete a Vehicle Report (3.4) and store the vehicle

(c) Complete the "Third Investigation" section of the original Abandoned Vehicle Report

(d) Submit both reports to the Watch Commander

- If the vehicle has been moved:

(a) Complete the "Third Investigation" section of the Abandoned Vehicle Report and submit with the DFAR

524.2.1 MARKED VEHICLE FILE

The Traffic Division shall be responsible for maintaining a file for all Abandoned Vehicle Reports.

Parking control officers assigned to the Traffic Division shall be responsible for the follow up investigation of all 72-hour parking violations noted on the Abandoned Vehicle Reports.

524.2.2 VEHICLE STORAGE

Any vehicle in violation shall be stored by the authorized towing service and a vehicle storage report shall be completed by the officer authorizing the storage of the vehicle.

The storage report form shall be submitted to the Records Section immediately following the storage of the vehicle. It shall be the responsibility of the Records Section to immediately notify the Stolen Vehicle System (SVS) of the Department of Justice in Sacramento (Vehicle Code § 22851.3(b)). Notification may also be made to the National Law Enforcement Telecommunications System (NLETS)(Vehicle Code § 22854.5).

Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Records Section to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice to all such individuals shall be sent first-class or certified mail pursuant to Vehicle Code § 22851.3(d).

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Vehicle Towing

525.1 PURPOSE AND SCOPE

This policy provides guidance related to vehicle towing. Nothing in this policy shall require a member of this department to tow a vehicle.

525.2 POLICY

The Newport Beach Police Department will tow vehicles when appropriate and in accordance with the law.

525.3 STORAGE AND IMPOUNDS

When circumstances permit, for example when towing a vehicle for parking or registration violations, the handling member should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone, or by leaving a notice attached to the vehicle at least 24 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately.

525.4 REMOVAL OF VEHICLES DUE TO HAZARD

When a vehicle should be towed because it presents a hazard, the owner or operator should arrange for the towing. Department members may assist by communicating requests through Dispatch to expedite the process.

If the owner or operator is unable to arrange for towing and the vehicle presents a hazard, the vehicle may be towed at the direction of the department member.

Vehicles that are not the property of the City should not be driven by department members unless it is necessary to move the vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant, or comply with posted signs.

525.5 ARREST SCENES

Whenever the owner or operator of a vehicle is arrested, the arresting officer should provide reasonable safekeeping by leaving the vehicle secured and lawfully parked at the scene or, when appropriate, by having the vehicle towed, such as when the vehicle presents a traffic hazard or the vehicle would be in jeopardy of theft or damage if left at the scene.

Officers are not required to investigate whether alternatives to towing a vehicle exist after an arrest. However, a vehicle should not be towed if reasonable alternatives exist. When considering whether to leave a vehicle at the scene, officers should take into consideration public safety as well as the reasonable safety of the vehicle and its contents.

The following are examples of situations where a vehicle should not be towed:

- The vehicle can be legally parked, left in a reasonably secure and safe location, and is not needed as evidence.

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- The vehicle is parked on private property on which the arrestee or owner is legally residing, or the property owner does not object to the vehicle being parked at that location.
- The arrestee or owner of the vehicle requests that it be released to a person who is present, willing, and able to legally take control of the vehicle.
- The vehicle is legally parked and the arrestee or owner requests that it be left at the scene. In such cases the requester should be informed that the Department will not be responsible for theft or damages.

525.6 TOWING FOR EXPIRED REGISTRATION

Prior to a member removing a vehicle that is found to have expired registration for more than six months, the member shall verify that no current registration exists with the Department of Motor Vehicles (DMV). If current registration exists with the DMV, the vehicle shall not be removed (Vehicle Code § 22651(o)(1)(A)).

525.7 VEHICLES RELATED TO CRIMINAL INVESTIGATIONS

Officers should tow vehicles that are needed for the furtherance of an investigation or prosecution of a case, or that are otherwise appropriate for seizure as evidence. Officers should make reasonable efforts to return a recovered stolen vehicle to its owner rather than have it towed, so long as the vehicle is not needed for evidence.

525.7.1 IMPOUNDMENT AT SOBRIETY CHECKPOINTS

Whenever a driver is stopped at a sobriety checkpoint and the only violation is that the operator is driving without a valid driver's license, the officer shall make a reasonable attempt to identify the registered owner of the vehicle (Vehicle Code § 2814.2). The officer shall release the vehicle to the registered owner if the person is a licensed driver, or to another licensed driver authorized by the registered owner, provided the vehicle is claimed prior to the conclusion of the checkpoint operation.

If the vehicle is released at the checkpoint, the officer shall list on their copy of the notice to appear the name and driver's license number of the person to whom the vehicle is released.

When a vehicle cannot be released at the checkpoint, it shall be towed (Vehicle Code § 22651(p)). When a vehicle is removed at the checkpoint, it shall be released during the normal business hours of the storage facility to the registered owner or their agent upon presentation of a valid driver's license and current vehicle registration.

525.8 VEHICLE STORAGE REPORT

Department members requesting towing, storage, or impound of a vehicle shall complete the appropriate electronic vehicle report and accurately record the mileage and a description of property within the vehicle (Vehicle Code § 22850). A copy of the storage report should be given to the tow truck operator, and the original shall be submitted to the Records Section as soon as practicable after the vehicle is towed.

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525.9 RECORDS SECTION RESPONSIBILITY

Records Section staff shall promptly enter pertinent data from the dispatcher's electronic entry into the Stolen Vehicle System and return the form to the Watch Commander for approval (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5).

Approved storage forms shall be promptly placed into RMS so that they are immediately available for release or review should inquiries be made.

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the Records Section to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice shall be sent to all such individuals by mail as applicable and as provided in Vehicle Code § 22851.3(d); Vehicle Code § 22852(a); and Vehicle Code § 14602.6(a)(2). The notice shall include the following (Vehicle Code § 22852(b)):

(a) The name, address, and telephone number of this department

(b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage

(c) The authority and purpose for the removal of the vehicle

(d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, in writing, or by telephone within 10 days of the date appearing on the notice

525.10 TOWING SERVICES

Members shall not show preference among towing services that have been authorized for use by the Department. A rotation or other system established by the Department for tow services should be followed.

525.11 VEHICLE INVENTORY

The contents of all vehicles towed at the request of department members shall be inventoried and listed on the inventory report. When reasonably practicable, photographs may be taken to assist in the inventory.

(a) An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including but not limited to any unlocked glove box, other accessible areas under or within the dashboard area, any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats, and under the seats.

(b) In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in any other type of unlocked compartments that are a part of the vehicle, including unlocked vehicle trunks and unlocked car top containers.

(c) Any locked compartments including but not limited to locked glove compartments, locked vehicle trunks, locked hatchbacks, and locked car-top containers should be

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inventoried, provided the keys are available and released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.

(d) Closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes except for the following: wallets, purses, coin purses, fanny packs, personal organizers, briefcases, or other closed containers designed for carrying money, small valuables, or hazardous materials.

Members should ask the occupants whether the vehicle contains any valuables or hazardous materials. Responses should be noted in the inventory report. If the occupant acknowledges that any closed container contains valuables or a hazardous material, the container shall be opened and inventoried. When practicable and appropriate, such items should be removed from the vehicle and given to the owner, or booked into property for safekeeping.

Any cash, jewelry, or other small valuables located during the inventory process will be held for safekeeping, in accordance with the Property Office Policy. A copy of the property receipt should be given to the person in control of the vehicle or, if that person is not present, left in the vehicle.

A copy of the vehicle inventory will be given to the tow truck operator.

These inventory procedures are for the purpose of protecting the vehicle owner's property, providing for the safety of department members, and protecting the Department against fraudulent claims of lost, stolen, or damaged property.

Towing a vehicle in order to perform an inventory should not be used as a pretext for an evidence search. Nothing in this policy prevents the towing of a vehicle that would occur for reasons independent of any suspicion that the vehicle may contain evidence if it is otherwise justified by law or this policy.

525.12 SECURITY OF VEHICLES AND RETRIEVAL OF PROPERTY

If the search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft, or damage, the department member conducting the search shall take such steps as are reasonably necessary to secure or protect the vehicle or property from such hazards.

Unless it would cause an unreasonable delay in towing the vehicle or create an issue of officer safety, reasonable accommodations should be made to permit the owner, operator, or occupant to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) that are not considered evidence or contraband.

Members who become aware that a vehicle may have been towed by the Department in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the owner or their agent to request a hearing to contest the tow.

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525.13 RELEASE OF VEHICLE

The Department will maintain a listed, 24-hour telephone number to provide information regarding impoundment of vehicles and the right of the registered owner to request a storage hearing. Releases for towed vehicles will be made available during regular, non-emergency business hours (Vehicle Code § 14602.6).

(a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3; Vehicle Code § 22850.5).

(b) Vehicles removed that require payment of parking fines or proof of valid driver's license shall only be released upon presentation of proof of compliance, proof of payment, completion of affidavit, and payment of applicable fees related to the removal (Vehicle Code § 22651 et seq.; Vehicle Code § 22652 et seq.; Vehicle Code § 22850.3; Vehicle Code § 22850.5).

(c) A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or their agent with proof of current registration, proof of a valid driver's license, and applicable fees paid prior to the end of the 30-day impoundment period under any of the following circumstances:

1. The vehicle was stolen.
2. If the driver reinstates their driver's license or acquires a license and provides proof of proper insurance.
3. Any other circumstance as set forth in Vehicle Code § 14602.6.
4. When there is no remaining community caretaking need to continue impound of the vehicle or the continued impound would not otherwise comply with the Fourth Amendment.

(d) An autonomous vehicle removed under authority of Vehicle Code § 22651(o)(1)(D) shall be released to the registered owner or person in control of the autonomous vehicle if the requirements of Vehicle Code § 22651(o)(3)(B) are met.

Personnel whose duties include releasing towed vehicles should consult the Vehicle Code under which the vehicle was towed or impounded for any specific requirements prior to release.

Members who suspect that a vehicle was impounded in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the registered owner or their agent to request a hearing, as described in the Vehicle Impound Hearings Policy.

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Chapter 6 - Investigation Operations

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Investigation and Prosecution

600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

600.2 FOLLOW-UP REPORT

The Follow-up Report (NBPD FORM 12.13.2) shall be completed by the investigator to whom a case is assigned when:

- There is a change in the status of the case.
- Additional information is obtained.
- The investigation indicates that a crime occurred other than the one originally reported, e.g., theft rather than burglary.
- A Follow-up Report should be completed within 30 days of original case assignment and each subsequent 30 days until the case is cleared or held in abeyance.

Justification for a change of case status shall be included in the narrative portion of the report. Investigators shall use the following definitions in determining case status:

600.2.1 CLEARED BY ARREST

An offense is cleared by arrest when at least one person is arrested and charged with the commission of the offense or a lesser included offense, and turned over to the court for prosecution. Note: In misdemeanor cases where the suspect is identified and a warrant of arrest is obtained, the case shall be considered cleared by arrest.

When the person apprehended is a juvenile and further processing is for the commission of the offense or a lesser included offense, the case shall be considered cleared by arrest. This clearance can be made even though no actual physical arrest was made.

600.2.2 EXCEPTIONAL CLEARANCE

This disposition shall be used when a case has progressed to a point where further action cannot reasonably be taken. The case may be cleared if all of the following circumstances exist:

(a) The identity of the suspect has definitely been established, and

(b) There is sufficient information to support an arrest, charge, and the filing of a complaint, and

(c) The exact location of the offender is known, and

(d) There is some reason outside law enforcement control that precludes arresting, charging and prosecuting the offender. Generally, an offense can be exceptionally cleared when it falls into one of the following categories. The list is not all-inclusive and there may be other circumstances when an exceptional clearance is appropriate:

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1. Suicide or death of the suspect
2. Confession by the offender already in custody or serving a sentence (a variation of cleared by arrest but the offender would be prosecuted in most situations on a new charge)
3. Extradition is denied
4. Victim refuses to cooperate in the prosecution and all four of the above circumstances exist
5. Warrant is outstanding for a felon but the offender dies
6. The handling of a juvenile offender by oral or written notice to parents in instances involving minor offenses such as theft
7. By specific and/or unique method of operation with reasonable, corroborative evidence linking the suspect to the crime

600.2.3 CLEARED OTHER
This disposition shall be used to indicate a non criminal investigation has been completed and no further action is necessary. For Example:

(a) Death Report
(b) Suspicious Circumstances
(c) Missing Juvenile/Adult

600.2.4 UNFOUNDED
This disposition shall be used to indicate that the crime or incident alleged in the original report did not occur or if it has been determined that the incident occurred in another jurisdiction and the reports have been forward to the appropriate law enforcement agency.

600.2.5 INVESTIGATION CONTINUED
This disposition shall be used to indicate that the case has not been cleared and the investigation is actively continuing.

600.2.6 HELD IN ABEYANCE
This disposition shall be used to indicate that the case has not been cleared but that the investigation has progressed to a point where no further action can be taken without additional leads or information.

600.3 POTENTIALLY EXCULPATORY EVIDENCE OR FACTS
Officers must include in their reports adequate reference to all material evidence and facts which are reasonably believed to be exculpatory to any individual in the case. If an officer learns of potentially exculpatory information anytime after submission of the case, the officer must notify the prosecutor as soon as practicable.

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Evidence or facts are considered material if there is a reasonable probability that they may impact the result of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an officer is unsure whether evidence or facts are material, the officer should address the issue with a supervisor.

Supervisors uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the department case file.

600.4 POLICY

It is the policy of the Newport Beach 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.

600.5 INITIAL INVESTIGATION

600.5.1 OFFICER RESPONSIBILITIES

An officer responsible for an initial investigation shall complete no less than the following:

(a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
    1. An initial statement from any witnesses or complainants.
    2. A cursory examination for evidence.

(b) If information indicates a crime has occurred, the officer shall:
    1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
    2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
    3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Watch Commander.
    4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
    5. Collect any evidence.
    6. Take any appropriate law enforcement action.
    7. Complete and submit the appropriate reports and documentation.

(c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the informant or complainant of this information.

600.5.2 CIVILIAN MEMBER RESPONSIBILITIES

A civilian member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take

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any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an officer shall be requested.

600.6 CUSTODIAL INTERROGATION REQUIREMENTS

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

600.6.1 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 Detective 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.

600.6.2 MANDATORY RECORDING OF ADULTS

Any custodial interrogation of an adult who is suspected of having committed any murder shall be recorded in its entirety. The recording should be video with audio if reasonably feasible (Penal Code § 859.5).

This recording is not mandatory when (Penal Code § 859.5):

(a) Recording is not feasible because of exigent circumstances that are later documented in a report.

(b) The suspect refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.

(c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.

(d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.

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(e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated or another individual. Such circumstances shall be documented in a report.

(f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.

(g) The questions are part of a routine processing or booking, and are not an interrogation.

(h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

The Department shall maintain an original or an exact copy of the recording until a conviction relating to the interrogation is final and all appeals are exhausted or prosecution is barred by law (Penal Code § 859.5).

600.7 USE OF CERTAIN DNA SAMPLES

Known samples of DNA collected from a victim of a crime or alleged crime, and known reference samples of DNA from any individual that were voluntarily provided for the purpose of exclusion are to be used only for the purpose directly related to the incident being investigated and in compliance with the procedures identified in Penal Code § 679.12.

600.8 DISCONTINUATION OF INVESTIGATIONS

The investigation of a criminal case or efforts to seek prosecution should only be discontinued if one of the following applies:

(a) All reasonable investigative efforts have been exhausted, no reasonable belief that the person who committed the crime can be identified, and the incident has been documented appropriately.

(b) The perpetrator of a misdemeanor has been identified and a warning is the most appropriate disposition.

1. In these cases, the investigator shall document that the person was warned and why prosecution was not sought.
2. Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.

(c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.

(d) The case has been submitted to the appropriate prosecutor, charges have been filed, and further investigation is not reasonable, warranted, or requested, and there is no need to take the suspect into custody.

(e) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted, or requested.

(f) Investigation has proven that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

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The Domestic Violence, Child Abuse, Sexual Assault Investigations, and Senior and Disability Victimization policies may also require an arrest or submittal of a case to a prosecutor.

600.9 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES

Use of social media and any other internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights, and civil liberties. Information gathered via the internet should only be accessed by members while on-duty and for purposes related to the mission of this department. If a member encounters information relevant to a criminal investigation while off-duty or while using the member's own equipment, the member should note the dates, times, and locations of the information and report the discovery to the member's supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using department equipment.

Information obtained via the internet should not be archived or stored in any manner other than department-established record keeping systems (see the Records Maintenance and Release and the Criminal Organizations policies).

600.9.1 ACCESS RESTRICTIONS

Information that can be accessed from any department computer, without the need of an account, password, email address, alias, or other identifier (unrestricted websites), may be accessed and used for legitimate investigative purposes without supervisory approval.

Accessing information from any internet source that requires the use or creation of an account, password, email address, alias or other identifier, or the use of nongovernment IP addresses, requires supervisor approval prior to access. The supervisor will review the justification for accessing the information and consult with legal counsel as necessary to identify any policy or legal restrictions. Any such access and the supervisor approval shall be documented in the related investigative report.

Accessing information that requires the use of a third party's account or online identifier requires supervisor approval and the consent of the third party. The consent must be voluntary and shall be documented in the related investigative report.

Information gathered from any internet source should be evaluated for its validity, authenticity, accuracy, and reliability. Corroborative evidence should be sought and documented in the related investigative report.

Any information collected in furtherance of an investigation through an internet source should be documented in the related report. Documentation should include the source of information and the dates and times that the information was gathered.

600.9.2 INTERCEPTING ELECTRONIC COMMUNICATION

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Officers should seek legal counsel before any such interception.

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600.10 CELLULAR COMMUNICATIONS INTERCEPTION TECHNOLOGY

The Detective Division Commander is responsible for ensuring the following for cellular communications interception technology operations (Government Code § 53166):

(a) Security procedures are developed to protect information gathered through the use of the technology.

(b) A usage and privacy policy is developed that includes:

1. The purposes for which using cellular communications interception technology and collecting information is authorized.
2. Identification by job title or other designation of employees who are authorized to use or access information collected through the use of cellular communications interception technology.
3. Training requirements necessary for those authorized employees.
4. A description of how the Department will monitor the use of its cellular communications interception technology to ensure the accuracy of the information collected and compliance with all applicable laws.
5. Process and time period system audits.
6. Identification of the existence of any memorandum of understanding or other agreement with any other local agency or other party for the shared use of cellular communications interception technology or the sharing of information collected through its use, including the identity of signatory parties.
7. The purpose of, process for and restrictions on the sharing of information gathered through the use of cellular communications interception technology with other local agencies and persons.
8. The length of time information gathered through the use of cellular communications interception technology will be retained, and the process the local agency will utilize to determine if and when to destroy retained information.

Members shall only use approved devices and usage shall be in compliance with department security procedures, the department's usage and privacy procedures and all applicable laws.

600.11 ANTI-REPRODUCTIVE RIGHTS CRIMES

A member should take a report any time a person living within the jurisdiction of the Newport Beach Police Department reports that the person has been a victim of an anti-reproductive rights crime as defined by Penal Code § 13776 and Penal Code § 423.3. This includes:

(a) Taking a report, even if the location of the crime is outside the jurisdiction of this department or has not been determined (e.g., online harassment).

(b) Providing the victim with the appropriate information, as set forth in the Victim and Witness Assistance Policy. Members should encourage the person to review the material and should assist with any questions.

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A report should also be taken if a person living outside department jurisdiction reports an anti-reproductive rights crime that may have been committed or facilitated within this jurisdiction (e.g., use of a post office box in the [city/county] to facilitate the crime).

A member investigating an anti-reproductive rights crime should ensure that the case is referred to the appropriate agency if it is determined that this department should not be the investigating agency. The victim should be advised that the case is being transferred to the agency of jurisdiction. The appropriate entries should be made into any databases that have been authorized for department use and are specific to this type of investigation.

The Detective Division supervisor should provide the Records Manager with enough information regarding the number of calls for assistance and number of arrests to meet the reporting requirements to the California Department of Justice as required by Penal Code § 13777. See the Records Section Policy for additional guidance.

600.12 STATE REQUIREMENTS FOR FIREARM INVESTIGATIONS

600.12.1 CALIFORNIA DOJ NOTICE OF LOCATION OF REPORTED LOST OR STOLEN FIREARM

When notification is received from the California Department of Justice (DOJ) that a firearm purchase matches an entry made into the Automated Firearms System by the Department as lost or stolen, the Detective Division supervisor shall assign an officer to retrieve the firearm and book the firearm into evidence in accordance with the Property and Evidence Policy. Recovery of the firearm shall be reported pursuant to Penal Code § 11108.2, Penal Code §11108.3, and Penal Code § 11108.5. If appropriate, arrangements may be made to have another state or local law enforcement agency retrieve the firearm on behalf of the Department (Penal Code § 28220).

600.12.2 RELINQUISHMENT OF FIREARMS VERIFICATION

The Detective Division supervisor shall designate a member to have access to the Armed Prohibited Persons System (APPS) to receive information regarding individuals in the jurisdiction of the Department who have become a prohibited possessor of a firearm registered in their name and have not provided proof of relinquishment. The member shall document steps taken to verify that the individual is no longer in possession of firearms and provide the information to the Records Section for preparation of a quarterly report to the California DOJ (Penal Code § 29813) (see the Records Section Policy for additional guidance).

600.13 MODIFICATION OF CHARGES FILED

Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended or dismissed without the authorization of a Division Commander or the Chief of Police. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.

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600.14 COMPUTERS AND DIGITAL EVIDENCE

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, officers should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

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Crime Analysis

601.1 PURPOSE AND SCOPE

Crime analysis should provide currently useful information to aid operational personnel in meeting their tactical crime control and prevention objectives by identifying and analyzing methods of operation of individual criminals, providing crime pattern recognition, and providing analysis of data from field interrogations and arrests. Crime analysis can be useful to the Department's long range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

601.1.1 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to:

- Crime reports
- Field Interview cards
- Parole and Probation records
- Computer Aided Dispatch data
- Statewide Integrated Traffic Reporting System (SWITRS)

601.1.2 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for Crime Analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

601.1.3 CRIME ANALYSIS DISSEMINATION

For a crime analysis system to function effectively, information should be disseminated to the appropriate units or persons on a timely basis. Information that is relevant to the operational and tactical plans of specific line units should be sent directly to them. Information relevant to the development of the Department's strategic plans should be provided to the appropriate staff units. When information pertains to tactical and strategic plans, it should be provided to all affected units.

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Sexual Assault Victims' DNA Rights

602.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Senior and Disability Victimization policies.

602.1.1 DEFINITIONS

Definitions related to this policy include:

Sexual assault - Any crime or attempted crime of a sexual nature, to include but not limited to offenses defined in Penal Code § 243.4, Penal Code § 261 et seq., and Penal Code § 285 et seq.

Sexual Assault Response Team (SART) - A multidisciplinary team generally comprised of advocates; law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

602.2 OFFICER RESPONSIBILITY

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

(a) Immediately provide the victim with the "Victims of Domestic Violence" card containing the names and locations of rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2(a)).

(b) If victim is transported to a hospital for any medical evidentiary or physical examination the officer shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2(b)(1)).

1. Prior to any such examination the assigned officer shall ensure that the victim has been properly informed of their right to have a sexual assault victim counselor and at least one other support person present (Penal Code § 264.2(b)(2)).

2. A support person may be excluded from the examination by the officer or the medical provider if their presence would be detrimental to the purpose of the examination (Penal Code § 264.2(b)(4)).

602.2.1 PROVIDING CONFIDENTIALITY

Protective Cover Sheet, NBPD Form 3.1.1 will be used to provide confidentiality for rape victims when requested. The victim's name and identifying information will be placed on this form ONLY.

- The victim's name will not appear anywhere in the Preliminary Investigation Report, or any other report that is a part of this investigation except on the Protective Cover Sheet

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(NBPD Form 3.1.1). The victim will be referred to as (Victim) or Victim {DR Number}, using the DR number in place of the victim's name. In the event of multiple victims, each will be given a DR number. A separate Protective Cover Sheet will be completed for each victim with his/her identifying DR number on it. The case will bear the first DR number issued as the assigned case number.

- The victim's home address will not appear anywhere in the Preliminary Investigation Report, or any other report that is a part of this investigation except on the Protective Cover Sheet (NBPD Form 3.1.1). If the rape crime took place at the victim's home, the street name and closest intersection street name will be recorded as the location of occurrence.
- No employee will make a copy of or release information from the Protective Cover Sheet (NBPD Form 3.1.1) except as follows:
    - One copy to the assigned investigator, and
    - One copy to the District Attorney's Office, if requested by the assigned investigator.
    - Prior to turning in this report for approval, the officer will insure that the victim's name and address do not appear anywhere within any documentation, to include the crime report, property reports, hospital reports, evidence tags or any other documentation which will be included in the NBPD case file.

602.2.2 TIMELINESS OF EXAMINATION

It is crucial that rape and sexual assault examinations be performed as soon after the crime as practicable. Biological evidence should be collected and preserved within 72 hours for best results. There are certain circumstances that will allow evidence to retrieved beyond the 72 hours.

If there is indication that drugs or alcohol are a contributing factor and the victim could be under the influence of one or both, a forensic urine and blood test should be administered immediately. Some drugs can be detectable in urine for up to 96 hours after ingestion. If the investigating officer expects a delay to the start of the Sexual Assault Medical exam it must be communicated to the Health Professional that there is a necessity for a urine sample to be taken immediately. A blood test can be ordered from CFP prior to transportation to The Safe Place listing "sexual assault victim" as the reason for the sample testing.

602.2.3 CONSENT FOR RAPE EXAMINATION BY PATIENT/PARENT/GUARDIAN

ADULT VICTIM

A rape examination of an adult victim shall be administered after obtaining his/her permission.

MINOR VICTIM

Family Code Sections 6927 and 6928 permit minors (12-17 years of age) to consent to medical examination, treatment, and evidence collection for rape/sexual assault without parental consent.

A rape/sexual assault examination of a juvenile victim under 12 years of age shall be administered after obtaining the parent's or legal guardian's authorization:

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- If a parent or guardian is unavailable, an officer may take the juvenile into custody under Section 305 W.I.C. and order the hospital Health Care Professional to perform the examination.
- Health Care Professionals are required to attempt to contact the parents or legal guardians of the minor unless the parents or legal guardians are suspects in the crime under investigation.

602.2.4 RAPE EXAMINATION - OFFICER RESPONSIBILITY
An officer present at the medical facility where the examination is being administered shall be responsible for the following:

ADULT VICTIM

Absent medical reasons that require treatment at Hoag Hospital Emergency Room first, victims will be transported to the Safe Place at Anaheim Memorial Medical Center, 1111 West La Palma Avenue, for an Adult Sexual Assault Victim (ASAV) Exam.

Prior to departing to Safe Place, law enforcement officers and/or their dispatchers should make two calls. Call the Forensic Nurse Specialist at (562) 497-0147 and the Sexual Assault Hotline at (714) 957-2737 for advocate response.

MINOR VICTIM

Absent medical reasons that require treatment at Hoag Hospital Emergency Room first, minor victims will be transported to the Child Abuse Services Team (C.A.S.T.) 401 The City Drive South, Orange, for treatment and interviewing, providing they are open and consultation has been made with a Special Victims Unit detective or the Watch Commander. Safe Place can be used if C.A.S.T. is not available.

EXAM RESULTS/EVIDENCE

- Obtain the name of the examining physician
- Obtain the name of any nurse or technician witnessing the examination
- SAFE Kits will be retained by the forensic nurse and submitted to the Orange County Crime Lab for processing
- Book any other physical evidence
    - Any "perishable" evidence shall be booked in paper envelopes or bags. All biological specimens (to include solid evidence that may contain biological evidence) except whole blood will be frozen. Whole blood specimens will be stored in the refrigerator
- Ensure that the victim's name does not appear anywhere on documents retained as part of the NBPD file. (Use the DR number in lieu of the victim's name.)

602.3 POLICY
It is the policy of the Newport Beach Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and

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will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

602.4 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

(a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.

(b) Conduct follow-up interviews and investigation.

(c) Present appropriate cases of alleged sexual assault to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.

(e) Provide referrals to therapy services, victim advocates and support for the victim.

(f) Participate in or coordinate with SART.

602.5 REPORTING

In all reported or suspected cases of sexual assault, a report should be written and assigned for follow-up investigation. This includes incidents in which the allegations appear unfounded or unsubstantiated.

602.6 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations, which begin with the initial call to Dispatch, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of SART should be included in the initial victim interviews. An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

No opinion of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; Penal Code § 637.4).

Victims should be apprised of applicable victim’s rights provisions, as outlined in the Victim and Witness Assistance Policy.

602.6.1 VICTIM RIGHTS

Whenever there is an alleged sexual assault, the assigned officer shall accomplish the following:

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(a) Prior to the commencement of the initial interview, advise the victim in writing of the right to have a victim advocate and a support person of the victim's choosing present at any interview or contact by law enforcement, about any other rights of a sexual assault victim pursuant to the sexual assault victim card described in Penal Code § 680.2, and the right to have a person of the same or opposite gender present in the room during any interview with a law enforcement official unless no such person is reasonably available (Penal Code § 679.04).

(b) If the victim is transported to a hospital for any medical evidentiary or physical examination, the officer shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2).

1. The officer shall not discourage a victim from receiving a medical evidentiary or physical examination (Penal Code § 679.04).

2. A support person may be excluded from the examination by the officer or the medical provider if the support person's presence would be detrimental to the purpose of the examination (Penal Code § 264.2).

602.6.2 VICTIM CONFIDENTIALITY

Officers investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim’s parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting officer shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim’s parent or guardian (Penal Code § 293).

Except as authorized by law, members of this department shall not publicly disclose the name of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293).

602.7 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately (Penal Code § 680).

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602.7.1 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT

The Property Office supervisor should make California standardized sexual assault forensic medical evidence (SAFE) kits available to members who may investigate sexual assault cases. Members investigating a sexual assault should use these SAFE kits when appropriate and follow related usage guidelines issued by the California Clinical Forensic Medical Training Center (Penal Code § 13823.14).

602.7.2 COLLECTION AND TESTING REQUIREMENTS

Members investigating a sexual assault offense should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g). SAFE kits should be submitted to the crime lab within 20 days after being booked into evidence (Penal Code § 680).

In order to maximize the effectiveness of such testing and identify the perpetrator of any sexual assault, the assigned officer shall ensure that an information profile for the SAFE kit evidence has been created in the California Department of Justice (DOJ) SAFE-T database within 120 days of collection and should further ensure that the results of any such test have been timely entered into and checked against both the DOJ Cal-DNA database and the Combined DNA Index System (CODIS) (Penal Code § 680.3).

If the assigned officer determines that a SAFE kit submitted to a private vendor laboratory for analysis has not been tested within 120 days after submission, the officer shall update the SAFE-T database to reflect the reason for the delay in testing. The assigned officer shall continue to update the status every 120 days thereafter until the testing is complete, the statute of limitations has run, or the SAFE kit is exempt from the update requirement (Penal Code § 680.3).

If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue and is not going to be analyzed within 18 months of the crime, the assigned officer shall notify the victim of such fact in writing no less than 60 days prior to the expiration of the 18-month period (Penal Code § 680).

Additional guidance regarding evidence retention and destruction is found in the Property and Evidence Policy.

602.7.3 COLLECTION OF DNA REFERENCE SAMPLES

Reference samples of DNA collected directly from a victim of sexual assault, and reference samples of DNA collected from any individual that were voluntarily provided for the purpose of exclusion, shall be protected as provided in Penal Code § 679.12 (Penal Code § 680).

602.7.4 DNA TEST RESULTS

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available

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information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

(a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, members investigating sexual assault cases shall inform the victim of the status of the DNA testing of any evidence from the victim's case (Penal Code § 680).

1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.

2. Absent a written request, no member of this department is required to, but may, communicate with the victim or the victim's authorized designee regarding the status of any DNA testing.

(b) Sexual assault victims shall further have the following rights (Penal Code § 680):

1. To be informed if a DNA profile of the assailant was obtained from the testing of the SAFE kit or other crime scene evidence from their case.

2. To be informed if there is a confirmed match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the DOJ Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.

3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the DOJ Databank or the federal Department of Justice or Federal Bureau of Investigation CODIS database of case evidence.

4. To access the DOJ SAFE-T database portal consistent with Penal Code § 680.3(e) for information involving their own forensic kit and the status of the kit.

(c) Provided that the sexual assault victim or the victim's authorized designee has kept the assigned officer informed with regard to current address, telephone number, and email address (if available), any victim or the victim's authorized designee shall, upon request, be advised of any known significant changes regarding the victim's case (Penal Code § 680).

1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.

2. No officer shall be required or expected to release any information which might impede or compromise any ongoing investigation.

602.7.5 NON-TESTING OF SAFE KITS

Sexual assault survivors 18 years or older may be undecided at the time of the medical examination whether to report the sexual assault to law enforcement and may request that any collected medical evidence not be tested. If such a request is made, the medical facility is responsible for the transfer of the SAFE kit to the Newport Beach Police Department, if the Department is the investigating agency. The Department shall retain the SAFE kit until the sexual assault survivor requests testing (Penal Code § 680).

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If the Department receives a request for non-testing after the examination and the SAFE kit has not already been submitted to a crime lab, the SAFE kit shall be retained by the Department. If the SAFE kit has been submitted to the crime lab, but DNA testing has not yet begun, the assigned officer shall notify the crime lab of the request, and the untested SAFE kit shall be returned to the Department and retained pursuant to department protocols (Penal Code § 680).

A sexual assault survivor who initially requested that their SAFE kit not be tested may later request testing, regardless of whether they decide to make a report to law enforcement. The Detective Division supervisor should ensure the SAFE kit is sent to the crime lab for testing (Penal Code § 680).

602.8 DISPOSITION OF CASES

If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Detective Division supervisor.

Classification of a sexual assault case as unfounded requires the Detective Division supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

602.9 RELEASING INFORMATION TO THE PUBLIC

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Detective Division supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

602.10 TRAINING

Subject to available resources, periodic training should be provided to:

(a) Members who are first responders. Training should include:

1. Initial response to sexual assaults.
2. Legal issues.
3. Victim advocacy.
4. Victim’s response to trauma.
5. Proper use and handling of the California standardized SAFE kit (Penal Code § 13823.14).

(b) Qualified investigators, who should receive advanced training on additional topics. Advanced training should include:

1. Interviewing sexual assault victims.

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2. SART.
3. Medical and legal aspects of sexual assault investigations.
4. Serial crimes investigations.
5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
6. Techniques for communicating with victims to minimize trauma.

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Narcotics, Arson, Gang and Sex Offender Registration

603.1 PURPOSE AND SCOPE

The Detective Division is responsible for registering narcotics, arson, gang and sex offenders.

603.1.1 REGISTRATION PROCEDURES

A person who comes to NBPD for mandatory registration under 290 P.C. will be directed to any available Detective assigned to the Special Victims Unit. If one is not available, the registrant will be advised when the next available one will be in and directed to make an appointment.

A person who comes to NBPD for mandatory registration under 457.1 P.C. will be directed to any available Crimes against Persons Detective. If one is not available, the registrant will be advised when the next available one will be in and directed to make an appointment.

A person who comes to NBPD for mandatory registration under 11590 H. & S. will be directed to any available Special Investigations Detective. If one is not available, the registrant will be advised when the next available one will be in and directed to make an appointment.

A person who comes to NBPD for mandatory registration under 186.30 P.C. will be directed to any available Crimes against Person Detective or Gang officer. If one is not available, the registrant will be advised when the next available one will be in and directed to make an appointment.

The Detective or Officer shall:

Interview the registrant and complete State of California Registration Change of Address / Annual Update Form SS - 8102, or State of California Gang Registration Form. Have the registrant read the warning notice on the bottom of the first page and sign the form.

Obtain a DR number from records for this package.

Complete two Registrant Receipts (SS-8072). Sign them, have the registrant sign them, place the registrant's thumb print on them, mark one permanent and one temporary. Retain the permanent one with the file, give the temporary one to the registrant.

If the registrant has been ordered to register by the court within 5 working days of release from custody or conviction and they reside within the city of Newport Beach: Escort the registrant to the jail. See that two fingerprint cards are completed and mug shots are taken using the DR number. For Sex Registrants, the registering detective shall make sure that the photograph is e-mailed to the Department of Justice Sex Offender Tracking Unit.

Complete a record check (to include C.I.I.) for this subject and submit the entire package to records for processing.

For Sex Registrants, determine whether DNA has been collected pursuant to Penal Code Section 296. If DNA collection is required, refer to Manual Section 374 for direction.

Complete the Registrant Control Log.

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Complete STEP Service forms pursuant to 186.22 PC for Gang Registrations.

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Facial Recognition

Effective Date:	
Revised Date:	7/24/2026
Issuing Authority:	

604.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for the acceptable use of the images (probe and candidate), information and tools within the Facial Recognition system. Facial Recognition shall only be used when there is reasonable suspicion that such use will provide information relevant to an active investigation, imminent threat to health or safety ("at-risk"), or to help in the identification of deceased persons or persons unable to identify themselves. This policy applies to all law enforcement personnel granted direct access to the face recognition system, as well as those permitted to request face recognition searches.

604.1.1 DEFINITIONS

Breach – The unauthorized acquisition, access, use, or disclosure of Facial Recognition data in a manner that compromises the security, confidentiality or integrity of the information; or the same as the definition of "breach of the security of the system" set forth in California Civil Code Section 1798.29(f).

Candidate Images – The results of a Facial Recognition search. When Facial Recognition software compares a Probe Image against the images in a Repository, the result is a list of Candidate Images that the software determines to be sufficiently similar to or most likely resemble the Probe Image to warrant further analysis. A Candidate Image is an Investigative Lead only and does not establish reasonable suspicion or probable cause without further investigation or evidence.

Facial Recognition – The automated process whereby a Probe Image is used by Facial Recognition software for comparison with the Known Images (or features within images) contained in the image Repository, resulting in a list of Candidate Images ranked by computer-evaluated similarity score. This is commonly referred to as a one-to-many comparison.

Facial Reviewer – The human reviewer of Candidate Images produced by the automated Facial Recognition System to identify possible matches. The Facial Reviewer must have successfully completed training in facial comparison and the use of the Facial Recognition software.

Integrated Law and Justice Agency for Orange County (ILJAOC) – The ILJAOC is intended to provide criminal justice and law enforcement officials who have a need and right to know with comprehensive, timely, and accurate information about a criminal suspect or offender, including identity, criminal history, and current justice.

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Investigative Lead – Any information that could potentially aid in the successful resolution of an investigation. An Investigative Lead does not imply positive identification of a subject, nor that the subject is responsible for or otherwise involved in a criminal act.

Known Image – The image of an individual associated with a known or claimed identity and recorded electronically by a law enforcement agency through the Orange County Automated Biometric Identification System during the individual's booking process at an Orange County or City Jail.

Logs – A necessary part of an adequate security system, which ensures that information is properly tracked and that only authorized individuals have access to the data within the Facial Recognition System and the resulting Candidate Images.

Participating Agency – A law enforcement agency that is authorized to contribute images and/or biometric information and/or is authorized to access, receive, request, or use information from ILJAOC's Facial Recognition System for a valid law enforcement purpose through its authorized individual users. Participating Agencies must sign the Participating Agency Agreement (Agreement) with ILJAOC regarding the use of the Facial Recognition System and adopt internal policies and procedures for its use that are consistent with this policy.

Personally Identifiable Information (PII) – Information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information, that is linked or linkable to a specific individual.

Probe Image – The facial or distinctive image of a scar, mark, or tattoo, used by Facial Recognition software for comparison against a Known Image contained within the Facial Recognition System. The Probe Image must be an image of an individual lawfully obtained pursuant to a criminal investigation. Examples of Probe Images include:

- Images captured from closed-circuit TV cameras or security cameras
- Images captured from an ATM camera
- Images provided by a victim or witness of a crime
- Images gained from a criminal investigation are determined to be evidence of identity (fraudulent bank card or photograph ID)

Repository – A location where a group of images of known individuals and biometric templates obtained and verified from the Orange County Automated Biometric Identification System through a law enforcement process is stored and managed. A Repository is utilized during a Facial Recognition search.

A Repository may also be referred to as a Digital Mugshot System (DMS) by other law enforcement agencies or groups.

Surveillance – Observation and collection of data to gather evidence.

Unsolved Image File – A lawfully obtained probe image of an unknown subject may be added to an unsolved image file by authorized law enforcement users during an authorized criminal

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investigation, provided that a search has produced no candidates and the subject remains unknown. Images in an unsolved image #le are periodically compared with the known photos in an image Repository.

Valid Law Enforcement Purpose: Facial Recognition is to be used for information/intelligence gathering, development, collection, use, retention, or sharing that furthers the authorized functions and activities of a law enforcement agency. These functions and activities may include preventing crime, conducting criminal investigations, gathering criminal intelligence, mitigating imminent threats, ensuring public safety, protecting public or private structures and property, identifying deceased persons or persons unable to identify themselves, and furthering officer safety while adhering to laws and agency policies designed to protect the public.

604.2 POLICY

This policy of the Newport Beach Police Department is to solely utilize ILJAOC's Facial Recognition System as an investigative tool during investigations, to reduce imminent threats to health or safety, or to help identify deceased persons or persons unable to identify themselves, while recognizing the established privacy rights of the public.

Facial Recognition technology involves the ability to examine and compare distinguishing characteristics of a human face using biometric algorithms within a software application. This policy provides Department Members with guidelines and principles for collecting, accessing, using, disseminating, retaining, and purging images and related information applicable to the Facial Recognition System. This policy will ensure that all Facial Recognition uses are conducted for a Valid Law Enforcement Purpose without violating individuals' privacy, civil rights, or civil liberties.

Any conflict between this policy and either the Agreement or ILJAOC's Facial Recognition Policy, or any ambiguity in the terms and conditions of this policy, shall be resolved in favor of the more stringent meaning that complies and is consistent with federal and state laws and regulations.

604.3 AUTHORIZED USES

Any use of the Facial Recognition System shall be for official use only and law enforcement sensitive. All use(s) of the ILJAOC Facial Recognition System will be performed on a need-to-know and right-to-know basis per Criminal Offender Record Information (CORI) regulations. The use of the ILJAOC Facial Recognition System is controlled by state law pertaining to CORI. Penal Code § 11105 defines who has access to CORI, and Penal Code § 11140 through § 11144 establishes the penalties for the improper use of CORI. Law enforcement agencies are required to abide by the most updated DOJ CORI laws, which can be found on the DOJ website, as well as the Federal Bureau of Investigation's (FBI) most updated Criminal Justice Information Services (CJIS) Security Policy, which can be found on the FBI website.

The provisions of this policy support the following authorized uses of Facial Recognition information:

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(a) A reasonable suspicion that an identifiable individual has committed a criminal offense or is involved in or planning criminal conduct or activity that threatens any individual or the Community.

(b) An active or ongoing criminal investigation.

(c) To mitigate an imminent threat to the health or safety of the community.

(d) To investigate or corroborate tips and leads related to criminal investigations.

(e) For a person whom an officer reasonably believes is concealing their true identity and has a reasonable suspicion that the individual has committed a misdemeanor or felony.

(f) To assist in the identification of a person who lacks the capacity or is otherwise unable to identify themselves, such as an incapacitated, deceased, a danger to themselves or others, or otherwise at-risk person, only as a last resort after other traditional methods of identification have been unsuccessful.

This information is maintained in the Repository and used by authorized law enforcement personnel for the purposes set forth above. This technology can be a valuable investigative tool, but it will be treated like any other Investigative lead and should never be used as a sole guarantee of identification, reasonable suspicion to detain, or probable cause to search or arrest.

604.4 PROHIBITED USES

Facial Recognition shall not be used:

(a) To actively surveil members of the public through any camera or video device unless the person(s) are under an active criminal investigation or the surveillance is in response to an imminent threat to life;

(b) As a Probe Image(s) on live stream video, unless there is an imminent threat to life or involves at-risk individuals;

(c) For any purpose that violates the U.S. Constitution or laws of the United States, including the protections of the First, Fourth, and Fourteenth Amendments;

(d) To prohibit or deter lawful individual exercise of other rights, such as freedom of association, implied by and secured by the U.S. Constitution or any other constitutionally protected right or attribute, or as a Probe Image(s) obtained from First Amendment protected activity;

(e) For non-criminal purposes, except as defined in subsection 604.3 (c) and (f) above, or purely administrative investigations;

(f) For harassing and/or intimidating any individual or group;

(g) For predictive analysis;

(h) For personal or non-law enforcement purposes. This includes the sharing or utilization of any PII obtained from the ILJAOC Facial Recognition System for any purpose beyond the underlying valid law enforcement purpose;

(i) To assess immigration status;

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(j) To identify persons pursuing or exercising reproductive rights; or

(k) Any other access, use, disclosure, or retention that would violate applicable law, regulation, or policy.

604.5 CONSTITUTIONALLY PROTECTED EVENTS, ACTIVITY AND AFFILIATIONS

Facial recognition must be used in accordance with all federal and state laws and all Departmental policies. The Newport Beach Police Department and its personnel will not perform or request Facial Recognition searches about individuals or organizations that will violate any provision of the US Constitution, including the First, Fourth, and Fourteenth Amendments, and based solely on any of the following:

(a) Their religious, political, or social views or activities.

(b) Their participation in a particular noncriminal organization.

(c) Their race, ethnicity, citizenship, place of origin, age, disability, gender, gender identification, sexual orientation, or other protected classification.

604.6 DATABASE AND DATA LIMITATIONS

Only those employees who have completed training provided by the FBI or ILJAOC, which meets the Criminal Justice Information Services (CJIS) minimum training criteria for using Facial Recognition Systems, will be permitted to use the Facial Recognition system as Facial Reviewers. Facial Reviewers must also attend the Facial Recognition Searches and Advanced Morphological Training through the Facial Recognition software vendor prior to utilizing the Facial Recognition system.

The Newport Beach Police Department will not maintain, utilize, or keep any database to conduct Facial Recognition searches and shall only utilize the ILJAOC Facial Recognition System to conduct facial recognition searches.

The Newport Beach Police Department will only utilize the ILJAOC Facial Recognition System or databases linked to or accessible via the ILJAOC Facial Recognition System to conduct Facial Recognition searches.

No databases outside Orange County Automated Biometric Identification Systems, such as the California driver's license or open-source photo databases, or Automated License Plate Reader images will be uploaded, accessible, or searchable in the ILJAOC Facial Recognition System Repository.

ILJAOC does not connect the Facial Recognition System to any interface that performs live video surveillance, including surveillance cameras, drone footage, and body-worn cameras. The Facial Recognition System will not be configured to conduct facial recognition analysis on live or recorded video.

Potential matches returned by the Facial Recognition System are to be considered investigative leads only and cannot be used as the sole basis for a detention, arrest, or identification.

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604.7 DOCUMENTATION

Any authorized user from the Newport Beach Police Department must log each access to the ILJAOC Facial Recognition System. logs for authorized users will be retained and made available to the Orange County Sheriff's Department Crime Laboratory (OCCL) for quality control and random auditing purposes. The logs shall be retained in accordance with the Newport Beach Police Department's retention schedule.

The log must include the following information:

- The name, agency, and contact information of the law enforcement user
- The date and time of access
- Case number
- Probe Images
- The specific information accessed
- The authorized law enforcement or public safety justification for access (criminal investigation, criminal intelligence, imminent threat, or identification)
- Number of potential Candidate Images provided by the Facial Recognition System
- Whether filters or enhancements were utilized, and if so, on which Probe Images.

For any possible match in which an Investigative Lead is generated by the Facial Recognition software, the Facial Reviewer or investigator shall write a detailed report on the information obtained. The Facial Reviewer's report must be attached to the criminal investigation report. This must be done even if possible matches are not deemed likely candidate matches or used in the criminal investigation, since the prosecuting agency must be provided with all investigatory actions taken, whether or not they generate an investigative lead (see Section 100.8 below).

It is strongly recommended that Probe and Candidate Images be peer-reviewed, when feasible, for verification by other trained and authorized personnel. Authorized users with the Newport Beach Police Department are encouraged to review the quality of the information received from the ILJAOC Facial Recognition System.

If any malfunctions or deficiencies are identified, including data that may be inaccurate or incomplete, incorrectly merged, out of date, or cannot be verified, notify the Orange County Sheriff's Department Crime Laboratory (OCCL) Biometric Program Administrator through electronic notification at BiometricAdmin@ocsheriff.gov. The OCCL will review the Repository for the identified data and edit or remove it, as appropriate.

604.8 INVESTIGATIVE SEARCHES

(a) Probe Images will only be used from legally obtained sources.

(b) Before conducting a Facial Recognition search, Facial Reviewers will review, analyze, and evaluate the quality and suitability of a Probe Image, including factors such as the angle of the face image, level of detail, illumination, size of the face image, and other

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factors affecting a Probe Image. It is recommended that the results of this process be documented in the Logs as well.

(c) Upon determining that the Probe Image(s) are suitable, the Facial Reviewer may process the Probe Image(s) to conduct a Facial Recognition search.

(d) Facial Reviewers must be trained to use the software before using the ILJAOC Facial Recognition System.

(e) Only the minimum necessary amount of the Facial Recognition data required for Valid Law Enforcement Purposes may be accessed, copied, downloaded, or shared.

(f) Candidate Images which result from an Investigative Search are strictly defined as Investigative Leads. The ILJAOC considers the results, if any, of a Facial Recognition search to be advisory only for an Investigative Lead. Facial Recognition search results are not regarded as identification of a subject and do not, on their own, establish reasonable suspicion or probable cause without further investigation. Any possible connection or involvement of the subject(s) to the investigation must be determined through further investigative methods.

604.9 SHARING FACIAL RECOGNITION INFORMATION

Information obtained from the Facial Recognition System shall only be shared in accordance with the laws and policies governing CORI and as set forth in Section 100.3 above. Newport Beach Police Department members may only disseminate information obtained through the ILJAOC Facial Recognition System to:

Other law enforcement agencies, as permitted by this policy.

- A prosecutorial entity for use in a criminal matter to support a prosecution or disclose exculpatory information, in accordance with California statutory law and the California and United States Constitutions. Any use of the FRS, regardless of the results and whether it results in an investigative lead, shall be disclosed to the prosecuting agency since failure to do so may constitute a Brady violation.
- Personnel designated by a California or Federal Court in response to a court order.
- To an authorized government or law enforcement agency for the purpose of quality control and auditing.

Facial Recognition Search information shall not be disclosed to unauthorized individuals or for unauthorized purposes. Facial Recognition data may not be reproduced for secondary dissemination, transferred to, or shared with any other employing, licensing, or regulatory entity, or in response to a Public Records Act request.

The existence or nonexistence of Facial Recognition information should not be confirmed to any individual or an agency that would not be authorized to receive the information unless otherwise required by law.

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604.10 TRAINING

Newport Beach Police Department personnel accessing the Facial Recognition System shall have completed training provided by the FBI or ILJAOC that meets the Criminal Justice Information Services (CJIS) minimum training criteria for using Facial Recognition Systems. Facial Reviewers must also attend the Facial Recognition Searches and Advanced Morphological Training through the Facial Recognition software vendor prior to utilizing the Facial Recognition system. Investigative searches shall only be conducted by trained Facial Reviewers. Trained Facial Reviewers are qualified to assess image quality and suitability for Facial Recognition searches and to perform one-to-many and one-to-one face image comparisons.

604.11 AUDITS

Newport Beach Police Department will conduct quarterly audits of their personnel with access privileges to the ILJAOC Facial Recognition System to ensure only authorized users have access to the database and inactive user accounts are disabled.

All use(s) of the ILJAOC Facial Recognition System and search requests are subject to audit by the Cal-DOJ, ILJAOC, and OCCL. In the event of an audit, users will be required to provide the necessary data, including all Logs and documentation that provide appropriate justification for the use or request of a Face Recognition search. Appropriate justification shall include a situation description and purpose for the search, including a detailed account of circumstances amounting to reasonable suspicion, a case/complaint number, accompanying reports, and a file / crime type, if available.

604.12 SECURITY AND MAINTENANCE

Security safeguards specified in Attachment A to the Agreement shall be implemented. Security safeguards cover any medium (e.g., print or electronic) or technology (e.g., physical servers, virtual machines, or mobile devices) associated with the Facial Recognition system. Access to Facial Recognition information will be allowed only over secure networks. All results produced by the Department as a result of a Facial Recognition search should be disseminated by secured electronic means (such as an official government e-mail address).

All individuals with access to the Facial Recognition System will report a suspected or confirmed breach or security incident to OCCL's Biometric Program Administrator as soon as possible, and without unreasonable delay, consistent with applicable laws, regulations, policies, and procedures. This includes a Breach or Security Incident in any medium or form, including paper, oral, and electronic.

Access to the Facial Recognition system will be granted only to authorized users whose positions and job duties require it and who have successfully complied with the Department's requirements.

All users will be issued a unique username for accessing Facial Recognition data. The username must be promptly disabled or deleted, or the password changed, upon the transfer or termination of an employee with knowledge of the password. Usernames and passwords to the Facial Recognition system are not transferable, must not be shared, and must be kept confidential.

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Passwords must be at least eight characters long and composed of characters from at least three of the following four groups from the standard keyboard:

- Upper case letters (A-Z)
- Lower case letters (a-z)
- Arabic numerals (0-9)
- Non-alphanumeric characters (punctuation, symbols)

Passwords may not be a dictionary word or proper name, the same as the username, identical to the previous ten (10) passwords, or displayed when entered. Passwords shall expire within 90 calendar days. They must not be stored in a readable format on the computer.

Occasionally, images are sealed by court order or removed for a variety of legitimate reasons (e.g., duplicates, tests, or inappropriate content). Such images will be removed only by OCCL during audits or when directed to do so by a valid court order issued by a competent court of law. All court orders regarding images to be sealed or removed should be forwarded to OCCL's Biometric Program Administrator.

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Asset Forfeiture

606.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

606.1.1 DEFINITIONS

Definitions related to this policy include:

Fiscal agent - The person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Newport Beach Police Department seizes property for forfeiture or when the Newport Beach Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

Forfeiture - The process by which legal ownership of an asset is transferred to a government or other authority.

Forfeiture reviewer - The department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the assigned attorney.

Property subject to forfeiture - The following may be subject to forfeiture:

(a) Property related to a narcotics offense, which includes (Health and Safety Code § 11470; Health and Safety Code § 11470.1):

1. Property (not including real property or vehicles) used, or intended for use, as a container for controlled substances, materials to manufacture controlled substances, etc.
2. Interest in a vehicle (car, boat, airplane, other vehicle) used to facilitate the manufacture, possession for sale or sale of specified quantities of controlled substances.
3. Money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, proceeds traceable to an exchange, etc.
4. Real property when the owner is convicted of violating Health and Safety Code § 11366, Health and Safety Code § 11366.5 or Health and Safety Code § 11366.6 (drug houses) when the property was not used as a family residence or for other lawful purposes, or property owned by two or more persons, one of whom had no knowledge of its unlawful use.
5. The expenses of seizing, eradicating, destroying or taking remedial action with respect to any controlled substance or its precursors upon conviction for the unlawful manufacture or cultivation of any controlled substance or its precursors.

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(b) Property related to criminal profiteering (may include gang crimes), to include (Penal Code § 186.2; Penal Code § 186.3):

1. Any property interest, whether tangible or intangible, acquired through a pattern of criminal profiteering activity.
2. All proceeds acquired through a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity.

Seizure - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

606.2 POLICY

The Newport Beach Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential for revenue should never compromise the effective investigation of criminal offenses, officer safety or any person's due process rights.

It is the policy of the Newport Beach Police Department that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeiture.

606.3 ASSET SEIZURE

Property may be seized for forfeiture as provided in this policy.

606.3.1 PROPERTY SUBJECT TO SEIZURE

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

(a) Property subject to forfeiture authorized for seizure under the authority of a search warrant or court order.

(b) Property subject to forfeiture not authorized for seizure under the authority of a search warrant or court order when any of the following apply (Health and Safety Code § 11471; Health and Safety Code § 11488):

1. The property subject to forfeiture is legally seized incident to an arrest.
2. There is probable cause to believe that the property was used or is intended to be used in a violation of the Uniform Controlled Substances Act and the seizing officer can articulate a nexus between the property and the controlled substance offense that would lead to the item being property subject for forfeiture.

Officers aware of assets that may be forfeitable as a result of criminal profiteering or human trafficking should consider contacting the district attorney regarding a court order to protect the assets (Penal Code § 186.6; Penal Code § 236.6).

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Whenever practicable, a search warrant or court order for seizure prior to making a seizure is the preferred method.

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

606.3.2 PROPERTY NOT SUBJECT TO SEIZURE
The following property should not be seized for forfeiture:

(a) Cash and property that does not meet the forfeiture counsel's current minimum forfeiture thresholds should not be seized.

(b) Real property is not subject to seizure, absent exigent circumstances, without a court order (Health and Safety Code § 11471).

(c) A vehicle which may be lawfully driven on the highway if there is a community property interest in the vehicle by a person other than the suspect and the vehicle is the sole vehicle available to the suspect's immediate family (Health and Safety Code § 11470).

(d) Vehicles, boats or airplanes owned by an "innocent owner," such as a common carrier with no knowledge of the suspected offense (Health and Safety Code § 11490).

(e) Any property when the associated activity involves the possession of marijuana or related paraphernalia that is permissible under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1).

606.3.3 SEIZED VEHICLES
Vehicles seized subject to forfeiture will be taken to a designated secure storage facility. A seized vehicle should not be impounded. The officer seizing the vehicle shall notify the detective supervisor of the seizure of the vehicle and circumstances of the seizure as soon as possible.

If the vehicle cannot be driven, a tow truck will be used to tow the vehicle to the storage facility.

Personal property located in a seized vehicle shall be removed and booked into Property as either evidence or for safekeeping.

606.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

When property or cash subject to this policy is seized, the officer making the seizure should ensure compliance with the following:

(a) Complete applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so.

(b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.

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(c) Forward the original seizure forms and related reports to the forfeiture reviewer within two days of seizure.

The officer will book seized property as evidence with the notation in the comment section of the property form, “Seized Subject to Forfeiture.” Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

606.4.1 NARCOTIC ASSET FORFEITURE ACCOUNT - SUPPORT SERVICES DIVISION COMMANDER RESPONSIBILITIES

The Support Services Division Commander shall be responsible for:

- Maintaining a record of all funds received and dispersed.
-
- Obtaining approval from the Chief of Police for the expenditure of any account funds.

606.4.2 NARCOTIC ASSET FORFEITURE ACCOUNT - DETECTIVE DIVISION COMMANDER RESPONSIBILITIES

The Detective Division Commander shall be responsible for the following:

- In the event of a forfeiture under State or Federal Law, monitor the progress of the case and maintain liaison with the appropriate forfeiture unit.
- Maintain seized property in good condition pending forfeiture.
- Provide input to the Office of the Chief of Police on a quarterly basis regarding the status and use of all items and moneys seized and/or converted under narcotic asset forfeiture laws.
- The submission of an annual report to the Chief of Police on or before January 15th of each year.

606.4.3 NARCOTIC ASSET FORFEITURE ACCOUNT - CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police shall be responsible for reporting, on a quarterly basis, to the City Manager on the status of all items and moneys seized and/or converted to department use under narcotic asset forfeiture laws.

606.5 MAINTAINING SEIZED PROPERTY

The Property Office Supervisor is responsible for ensuring compliance with the following:

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(a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.

(b) All property received for forfeiture is checked to determine if the property has been stolen.

(c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.

(d) Property received for forfeiture is not used unless the forfeiture action has been completed.

606.6 FORFEITURE REVIEWER

The Chief of Police will appoint an officer as the forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a department-approved course on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

(a) Remaining familiar with forfeiture laws, particularly Health and Safety Code § 11469 et seq. and Penal Code § 186.2 et seq. and the forfeiture policies of the forfeiture counsel.

(b) Serving as the liaison between the Department and the forfeiture counsel and ensuring prompt legal review of all seizures.

(c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.

(d) Ensuring that property seized under state law is not referred or otherwise transferred to a federal agency seeking the property for federal forfeiture as prohibited by Health and Safety Code § 11471.2.

(e) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.

(f) Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form and a checklist that provides relevant guidance to officers. The forms should be available in languages appropriate for the region and should contain spaces for:

1. Names and contact information for all relevant persons and law enforcement officers involved.
2. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).
3. A space for the signature of the person from whom cash or property is being seized.

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4. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure and a detailed description of the items seized.

(g) Ensuring that officers who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins (DTBs) or Department Directives. The training should cover this policy and address any relevant statutory changes and court decisions.

(h) Reviewing each asset forfeiture case to ensure that:

1. Written documentation of the seizure and the items seized is in the case file.
2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property (Health and Safety Code § 11488.4).
4. Property is promptly released to those entitled to its return (Health and Safety Code § 11488.2).
5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
6. Any cash received is deposited with the fiscal agent.
7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
8. Current minimum forfeiture thresholds are communicated appropriately to officers.
9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.

(i) Ensuring that a written plan that enables the Chief of Police to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement officers and attorneys who may assist in these matters is available.

(j) Ensuring that the process of selling or adding forfeited property to the department's regular inventory is in accordance with all applicable laws and consistent with the department's use and disposition of similar property.

(k) Keeping a manual that details the statutory grounds for forfeitures and department procedures related to asset forfeiture, including procedures for prompt notice to

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interest holders, the expeditious release of seized property, where appropriate, and the prompt resolution of claims of innocent ownership (Heath and Safety Code § 11469).

(l) Providing copies of seized business records to the person or business from whom such records were seized, when requested (Heath and Safety Code §11471).

(m) Notifying the California Franchise Tax Board when there is reasonable cause to believe that the value of seized property exceeds $5,000.00 (Health and Safety Code § 11471.5).

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and City financial directives (Health and Safety Code § 11495).

606.7 DISPOSITION OF FORFEITED PROPERTY

Forfeited funds distributed under Health and Safety Code § 11489 et seq. shall only be used for purposes allowed by law, but in no case shall a peace officer's employment or salary depend upon the level of seizures or forfeitures he/she achieves (Heath and Safety Code § 11469).

The Department may request a court order so that certain uncontaminated science equipment is relinquished to a school or school district for science classroom education in lieu of destruction (Health and Safety Code § 11473; Health and Safety Code § 11473.5).

606.7.1 RECEIVING EQUITABLE SHARES

When participating in a joint investigation with a federal agency, the Newport Beach Police Department shall not receive an equitable share from the federal agency of all or a portion of the forfeiture proceeds absent either a required conviction under Health and Safety Code § 11471.2 or the flight, death or willful failure to appear of the defendant. This does not apply to forfeited cash or negotiable instruments of $40,000 or more.

606.8 CLAIM INVESTIGATIONS

An investigation shall be made as to any claimant of a vehicle, boat or airplane whose right, title, interest or lien is on the record in the Department of Motor Vehicles or in an appropriate federal agency. If investigation reveals that any person, other than the registered owner, is the legal owner, and that ownership did not arise subsequent to the date and time of arrest or notification of the forfeiture proceedings or seizure of the vehicle, boat or airplane, notice shall be made to the legal owner at his/her address appearing on the records of the Department of Motor Vehicles or the appropriate federal agency (Health and Safety Code § 11488.4).

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Informants

608.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

608.1.1 DEFINITIONS

Definitions related to this policy include:

Informant - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with, the Newport Beach Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the Newport Beach Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

608.2 POLICY

The Newport Beach Police Department recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this department that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

608.3 USE OF INFORMANTS

608.3.1 INITIAL APPROVAL

Before using an individual as an informant, an officer must receive approval from his/her supervisor. The officer shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Members of this department should not guarantee absolute safety or confidentiality to an informant.

608.3.2 JUVENILE INFORMANTS

The use of informants under the age of 13 is prohibited.

Except for the enforcement of laws related to the commercial sale of alcohol, marijuana or tobacco products, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:

(a) The juvenile’s parents or legal guardians

(b) The juvenile’s attorney, if any

(c) The court in which the juvenile’s case is being handled, if applicable (Penal Code § 701.5)

(d) The Chief of Police or the authorized designee

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608.3.3 INFORMANT AGREEMENTS

All informants are required to sign and abide by the provisions of the designated department informant agreement. The officer using the informant shall discuss each of the provisions of the agreement with the informant.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

608.4 INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

(a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Police, Division Commander, Special Investigations Unit supervisor or their authorized designees.

1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.

(b) Criminal activity by informants shall not be condoned.

(c) Informants shall be told they are not acting as police officers, employees or agents of the Newport Beach Police Department, and that they shall not represent themselves as such.

(d) The relationship between department members and informants shall always be ethical and professional.

(a) Members shall not become intimately involved with an informant.

(b) Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Special Investigations Unit supervisor.

(c) Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.

(e) Officers shall not meet with informants unless accompanied by at least one additional officer or with prior approval of the Special Investigations Unit supervisor.

(f) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.

(g) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.

(h) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

(i) Investigators are responsible for developing and handling informants in a manner consistent with Department Policy and the Orange County Cooperating Individual Index (OCCII) rules and guidelines.

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608.4.1 UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any member. The supervisor shall determine whether the informant should be used by the Department and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file “unsuitable” when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

(a) The informant has provided untruthful or unreliable information in the past.

(b) The informant behaves in a way that may endanger the safety of an officer.

(c) The informant reveals to suspects the identity of an officer or the existence of an investigation.

(d) The informant appears to be using his/her affiliation with this department to further criminal objectives.

(e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.

(f) The informant engages in any other behavior that could jeopardize the safety of officers or the integrity of a criminal investigation.

(g) The informant commits criminal acts subsequent to entering into an informant agreement.

608.5 INFORMANT FILES

Informant files shall be utilized as a source of background information about the informant, to enable review and evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of department members or the reliability of the informant.

Informant files shall be maintained in a secure area within the Special Investigations Unit. The Special Investigations Unit supervisor or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Chief of Police, Division Commander, Special Investigations Unit supervisor or their authorized designees.

The Detective Division Commander should arrange for an audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per year. If the Special Investigation Unit supervisor is replaced, the files will be audited before the new supervisor takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by a supervisor who does not have normal access to the informant files.

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608.5.1 FILE SYSTEM PROCEDURE

A separate file shall be maintained on each informant and shall be coded with an assigned informant control number. An informant history that includes the following information shall be prepared for each file:

(a) Name and aliases

(b) Date of birth

(c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features

(d) Photograph

(e) Current home address and telephone numbers

(f) Current employers, positions, addresses and telephone numbers

(g) Vehicles owned and registration information

(h) Places frequented

(i) Briefs of information provided by the informant and his/her subsequent reliability

1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.

(j) Name of the officer initiating use of the informant

(k) Signed informant agreement

(l) Update on active or inactive status of informant

608.6 INFORMANT PAYMENTS

No informant will be told in advance or given an exact amount or percentage for his/her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant’s previous criminal activity
- The level of risk taken by the informant

The Special Investigations Unit supervisor will discuss the above factors with the Detective Lieutenant and recommend the type and level of payment subject to approval by the Detective Division Commander or authorized designee.

608.6.1 PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

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A. Payments may be paid from investigative cash fund.

1. The Special Investigations Unit supervisor shall sign the voucher for cash payouts from the investigative cash fund.

2. A payment receipt and written statement of involvement shall be added to the informant's file.

B. Payments exceeding $500 shall require authorization from the Chief of Police or his authorized designee.

C. To complete the payment process for any amount, the officer delivering the payment shall complete a cash transfer form.

1. The cash transfer form shall include the following:

(a) Date

(b) Payment amount

(c) Newport Beach Police Department case number

(d) A statement that the informant is receiving funds in payment for information voluntarily rendered.

(e) The informant's assigned "CI" number.

2. The cash transfer form shall be signed by the informant.

3. The cash transfer form will be kept in the informant's file.

608.6.2 REPORTING OF PAYMENTS

Each informant receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed $600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the informant and by doing so jeopardize any investigation, the safety of officers or the safety of the informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the informant shall be provided a letter identifying the amount he/she must report on a tax return as “other income” and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the informant’s file.

608.6.3 AUDIT OF PAYMENTS

The Special Investigations Unit Supervisor shall ensure all cash expenditures from the investigative cash fund are properly documented for review at the monthly and annual audits.

The Special Investigations Unit supervisor or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law, as well as Department Policy section 341.2.2.

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The Detective Division Commander or the authorized designee should conduct a monthly audit of all informant funds for the purpose of accountability and security of the funds. The funds and related documents (e.g., investigative cash fund records, cash transfer forms, invoices, receipts and logs) will assist with the audit process.

608.7 LETTERS OF CONSIDERATION

All requests for consideration should be in writing, directed to the OCCII coordinator (as defined in the OCCII Rules and Guidelines), and approved by the Detective Division Commander or authorized designee. The letter should detail the Informant's level of involvement, the results of his or her efforts including DR numbers, number of people arrested and the amount of contraband and/or evidence seized. At no time will these letters be filed with the court, in the DA file, or given to the Informant or his attorney. They will be maintained in a secure location with the OCII and a copy should be placed in the Informant File.

608.8 INVESTIGATIVE CASH FUND - MANNER OF USE

In addition to informant payments, the investigative cash fund may be used for the following purposes:

- Expenses related to investigations where other types of payment would jeopardize officer safety or operational effectiveness (i.e., undercover operations) and with approval from the Detective Commander or authorized designee.
- Travel expenses required for active investigations and authorized by the Detective Division Commander on a Travel and Training Request Form (NBPD Form 1.65).

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Warrants

609.1 ARREST WARRANTS SERVED OUT OF COUNTY

An officer who serves an arrest warrant outside of Orange County shall:

- Verify that the arrest warrant is valid prior to making the arrest
- Advise the arrestee of his rights per 821 or 822 P.C. (right to be taken before a magistrate in the county of arrest)
- If the arrestee waives his rights per 821 or 822 P.C., have them sign NBPD FORM 5.9 to acknowledge that they relinquished this right, and attach this signed form to the booking report
- If the arrestee refuses to waive his rights per 821 or 822 P.C., take them to the nearest police facility within the county of arrest and book them.

609.1.1 WALK-THROUGH AND RAMEY ARREST WARRANTS

An investigator requiring an arrest warrant for immediate service shall:

- Complete a complaint request [5.7] and all necessary crime reports required by the office of the District Attorney
- Contact any available Deputy District Attorney at the Harbor Court and obtain the applicable charges as shown on the complaint request (warrants requested outside of normal business hours will be handled via the on-call Deputy District Attorney and the on-call Judge)
- Proceed to the "Attorney's Window" at the office of the Court Clerk. A court employee shall review the complaint request and additional reports to ensure accuracy and completion. The employee shall provide warrant documents and the name and location of an available judge
- Contact the judge and if the warrant is signed, return to the "Attorney's Window"
- Advise the court employee you are in possession of a signed warrant.

PROBABLE CAUSE (RAMEY) ARREST WARRANT

An investigator requiring a probable cause warrant where no criminal charges are ready to be filed by the District Attorneys Office shall:

- Complete the necessary reports and prepare an affidavit of probable cause for an arrest warrant
- Have the reports and affidavit reviewed and approved by a supervisor
- Proceed to the "Attorney's Window" at the office of the Court Clerk. A court employee shall review the affidavit and additional reports to ensure accuracy and completion.

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The employee shall provide warrant documents and the name and location of an available judge

- Contact the judge and if the warrant is signed, return to the "Attorney's Window." Advise the court employee you are in possession of a signed warrant.

AUTOMATED WARRANT SERVICE SYSTEM - WARRANT ENTRY

The investigator shall ensure that the warrant information has been entered in the AWSS by the court employee and shall obtain a working copy of the warrant. If service of the warrant could more effectively be accomplished by a delay of the entry, the investigator shall retain the hard copy of the warrant .

609.1.2 WARRANT SERVICE RESPONSIBILITIES

In order to ensure due diligence in the service of arrest warrants received by the Department, the following procedure is established.

WARRANT CLERK RESPONSIBILITIES

Warrants will be received by the Warrant Clerk and he/she will be responsible for the following:

- Verify the arrest warrant is related to a Newport Beach Police Department case
- Enter the arrest warrant information into the ALTARIS System
- Forward the arrest warrant to the Warrant Officer

WARRANT OFFICER RESPONSIBILITIES

The Warrant Officer will verify the arrest warrant is still valid and will be responsible for the following:

- Forward all arrest warrants that are related to cases assigned to Detectives to the Detective Division for service
- Forward all arrest warrants that are related to cases assigned to Traffic Investigators to the Traffic Division for service
- Forward all other felony arrest warrants to the Crime Suppression Unit for service
- Warrants not falling into the categories listed above (primarily misdemeanor traffic warrants) issued for persons living in the city will be placed in the warrant box in the Patrol Briefing Room. Personnel attempting to serve warrants from the warrant box will note the results of their attempt on the back of the warrant abstract and return it to the warrant box at the end of their assigned shift.
- The Warrant Officer will check the warrant box in the Patrol Briefing Room weekly. Previously served or unserviceable warrants will be removed.
- The Warrant Officer will make sure efforts to serve arrest warrants are documented.

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609.1.3 WARRANTS SERVED WITHIN CITY BY OUTSIDE AGENCIES

The following procedure shall be followed when assistance is requested by officer(s) from another agency or jurisdiction in the service of an arrest or search warrant within the city:

- Respond and contact the person in charge from the outside agency
- Request to view the actual arrest or search warrant (or abstract) and verify its validity
- If valid, assist the other agency in the service of the warrant as necessary

609.2 SEARCH WARRANTS

609.2.1 WRITTEN SEARCH WARRANTS

When, during business hours, a search warrant is needed, an officer should:

- Complete SEARCH WARRANT and Affidavit in Support of a SEARCH WARRANT forms
- Complete a Night-Time Service Certificate if service is requested between 2200 hours and 0700 hours of the following day
- Present the forms to a Deputy District Attorney for approval, if necessary
- Present the forms to a judge for approval and signature
- Execute the warrant leaving a copy of the warrant (not the affidavit) and an inventory of the property seized at the location
- Retain three copies of all paperwork for the purpose of seeking a complaint
- File the original warrant, affidavit and return (after the return is signed by the judge) with the Court Clerk. Search warrant returns should normally be completed within ten days, unless the court allows an extension.
- Obtain a certified copy of the warrant and supporting documents for filing at NBPD.

609.2.2 AFTER HOURS SEARCH WARRANTS

An officer who requires a search warrant after regular court hours should:

- Prepare a SEARCH WARRANT and AFFADAVIT in SUPPORT of SEARCH WARRANT
- Contact the O.C. Sheriff's Watch Commander and obtain contact information for the on-call D.D.A. if a consultation is necessary
- Contact a local judge and determine his or her availability to review and sign the warrant. (Special Investigations Detectives maintain a list of local judges willing to assist in after hours cases)
- If no local judge can be located, contact the O.C. Sheriff's Watch Commander and obtain contact information for an on-call judge
- Deliver the warrant in person to the judge for review or fax it at his or her discretion

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- Obtain the judge's signature on the warrant
- Execute the search warrant, leaving a copy of the warrant face sheet and a property inventory at the location
- Return and file the search warrant as outlined in Policy Manual § 609.2.1.

609.2.3 TELEPHONIC SEARCH WARRANTS

In situations where a telephonic search warrant is necessary and it is impractical to obtain an after hours search warrant as outlined in Policy Manual § 609.2.2, an officer should:

- Call the O.C Sheriff Department Watch Commander and request contact with the on-call deputy district attorney
- Be prepared to discuss the case in detail with the Deputy District Attorney
- Participate in a conference call with the Deputy District Attorney, a judge, and the O.C. Sheriff I.D. Division (recording of the call)
- Date and sign the judge's name to the "duplicate original" search warrant when the judge gives authorization
- Execute the warrant leaving a copy of the warrant (not the affidavit) and an inventory of the property seized at the location
- Retain three copies of all paperwork for the purpose of seeking a complaint
- Obtain the tape recording of the conference call from the O.C. Sheriff Department and have it transcribed at NBPD
- Obtain the judge's signature on the "original" warrant as soon as practicable
- File the original warrant, affidavit and return (after the return is signed by the judge) with the Court Clerk
- Obtain a certified copy of the warrant and supporting documents for filing at NBPD.

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Eyewitness Identification

610.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (Penal Code § 859.7).

610.1.1 DEFINITIONS

Definitions related to the policy include:

Eyewitness identification process - Any field identification, live lineup or photographic identification.

Field identification - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

610.2 POLICY

The Newport Beach Police Department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

610.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating member should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

610.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Detective Division supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide (Penal Code § 859.7):

(a) The date, time and location of the eyewitness identification procedure.

(b) The name and identifying information of the witness.

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(c) The name of the person administering the identification procedure.

(d) If applicable, the names of all of the individuals present during the identification procedure.

(e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.

(f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.

(g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.

(h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.

(i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.

(j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.

(k) Any other direction to meet the requirements of Penal Code § 859.7, including direction regarding blind or blinded administrations and filler selection.

The process and related forms should be reviewed at least annually and modified when necessary.

610.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case.

Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

The eyewitness identification procedure should be audio and video recorded and the recording should be retained according to current evidence procedures. When it is not feasible to make a recording with both audio and visual representations, an audio recording should be made (Penal Code § 859.7).

610.6 DOCUMENTATION

A thorough description of the eyewitness process and the result of any eyewitness identification should be documented in the case report.

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If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

610.6.1 DOCUMENTATION RELATED TO RECORDINGS
The handling member shall document the reason that a video recording or any other recording of an identification was not obtained (Penal Code § 859.7).

610.6.2 DOCUMENTATION RELATED TO BLIND ADMINISTRATION
If a presentation of a lineup is not conducted using blind administration, the handling member shall document the reason (Penal Code § 859.7).

610.7 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications. A field elimination show-up or one-on-one identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

(a) Obtain a complete description of the suspect from the witness.

(b) Assess whether a witness should be included in a field identification process by considering:

1. The length of time the witness observed the suspect.
2. The distance between the witness and the suspect.
3. Whether the witness could view the suspect's face.
4. The quality of the lighting when the suspect was observed by the witness.
5. Whether there were distracting noises or activity during the observation.
6. Any other circumstances affecting the witness's opportunity to observe the suspect.
7. The length of time that has elapsed since the witness observed the suspect.

(c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.

(d) When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.

(e) The person who is the subject of the show-up should not be shown to the same witness more than once.

(f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.

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(g) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.

(h) If a witness positively identifies a subject of the show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

610.8 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness (Penal Code § 859.7). Techniques to achieve this include randomly numbering photographs, shuffling folders, or using a computer program to order the persons in the lineup.

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup (Penal Code § 859.7).

The member presenting the lineup should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding.

610.8.1 OTHER SAFEGUARDS

Witnesses should be asked for suspect descriptions as close in time to the incident as possible and before conducting an eyewitness identification. No information concerning a suspect should be given prior to obtaining a statement from the witness describing how certain he/she is of the identification or non-identification. Members should not say anything to a witness that that may validate or invalidate an eyewitness' identification. In photographic lineups, writings or information concerning any previous arrest of a suspect shall not be visible to the witness (Penal Code § 859.7).

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Photo Line Ups

611.1 PROCEDURE

Any officer intending to show a suspect's photograph to a victim or witness for the purpose of identification shall:

- Obtain at least five additional photographs depicting persons of similar appearance
- Block out or cover all visible notations on the photographs
- Place the photos in a Photo Display Folder (15.1.8) and follow the instructions on the back cover
- Read the witness admonishment
- Show the group of photos to each witness separately and individually
- Record all comments made by the witnesses
- Retain the Photo Display Folder (15.1.8) as evidence

In cases where a Photo Display Folder (15.1.8) is not used, an adhesive sticker, available and maintained in the Detective Division, containing the witness admonishment and a check box for the witness to indicate their identification of a suspect or lack thereof, along with a signature and date line, should be attached to the back of the original line-up form.

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Chapter 7 - Equipment

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Department Owned and Personal Property

700.1 PURPOSE AND SCOPE

Department employees are expected to properly care for department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

700.2 CARE OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to the cost of repair or replacement.

(a) Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any department issued property or equipment assigned for their use.

(b) The use of damaged or unserviceable department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.

(c) Except when otherwise directed by competent authority or required by exigent circumstances, department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.

(d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.

(e) In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

700.2.1 KNOX ENTRY DEVICES

The NBPD Knox Entry Device Program is established as a part of the Newport Beach Fire Department Knox Entry Device Program. Knox brand entry devices are installed throughout the city to assist Police and Fire personnel in gaining entry to certain locations or areas in emergency situations. Under this program there are two levels of entry:

- Grand Master devices are those which grant detailed access to building interiors and hold information necessary for fire fighting and rescue response. Only the Fire Department has access to grand mastered locations.
- Sub Master devices are those which gain exterior access to locations which have barrier devices to prevent the public from gaining access to buildings, housing tracts

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and facilities. The Police Department and the Fire Department have joint access to sub mastered locations.

ISSUANCE OF KEYS

Every sworn officer will be issued a serial numbered sub master key. When receiving the key, the officer will sign that he/she has received the key and a statement regarding safeguarding the key and compromise of the program. No officer will allow the Knox sub master key to be used or given to an unauthorized person. The only people authorized to be in possession of a Knox sub master key are Sworn Officers, Crime Scene Investigators, Planning & Research Community Service Officer, Animal Control Officers & permanently employed Parking Control Officers of this department and NBFD Fire Fighters. No officer will cause or allow a Knox sub master key to be duplicated at any time, for any reason.

COMPROMISE OF THE KNOX ENTRY DEVICE PROGRAM

Any compromise of the Knox Entry Device Program will be reported immediately, through the chain of command of any officer aware of the compromise to the Chief of Police. Compromise of this program is effected by the loss, duplication or loan to an unauthorized person of a Knox key. Compromise by loss or duplication will cause the immediate re-keying of all Knox entry devices which are accessible by the lost or duplicated key. Compromise by unauthorized loan and or use will be investigated. Should any of the following conditions be found to have occurred, re-keying will be required of all sub mastered devices. The Knox sub master key was out of Police or Fire Department control for a long enough period of time to allow for impression or duplication. There is knowledge that an impression or duplicate key was made or attempted. Any employee who knowingly allows unauthorized access to the Knox sub master key or who duplicates a Knox sub master key or who has a Knox sub master key duplicated will be subject to disciplinary action.

MAINTENANCE OF THE PROGRAM

The Knox Entry Device Program will be maintained by The Planning and Research Officer. This will include:

- Maintaining a list of active Knox entry devices
- Distributing updated lists, as appropriate, to Department personnel
- Maintaining Liaison with the Fire Department regarding operation of the program

The issuance of keys and the maintenance of the key roster will be the responsibility of the Fiscal Services / Facility Manager

USE OF DEVICES

These devices are to be used for official purposes only. When entry is made that leaves a location open, it will be secured as soon as it is practically possible.

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700.2.2 DUPLICATING MACHINES

Use limitations have resulted from economic and time/usage considerations. The maximum number of copies permitted shall be in accordance with current policy and shall be posted on or near the respective duplicating machines.

The use of Department duplicating machines are intended for and limited to official Department business.

EMPLOYEE RESPONSIBILITIES

An employee shall, prior to using a departmental duplicating machine, become familiar with the duplication limits established for that machine.

Note: Employees needing quantities beyond established limits shall contact the Planning and Research Unit and arrange to have the printing done by Central Duplicating at the City Hall or another appropriate outside source.

700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be made on the proper form (2.25). This form is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

The supervisor shall direct a memo to the appropriate Division Commander, which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief of Police who will then forward the claim to the Finance Department.

The Department will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of work.

700.3.1 REPORTING REQUIREMENT

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

Officers and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below.

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(a) A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

(b) A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY

If employees of another jurisdiction cause damage to real or personal property belonging to the City, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit. The employee shall submit a written report before going off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate Division Commander.

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Personal Communication Devices

702.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the possession and use of any personally owned or Department-issued personal communication devices (PCD), smart devices and wearable technology by Department employees while on duty, acting in an official capacity, or within secured Department facilities.

This policy is intended to protect Department operations, evidence integrity, protected information,employee and public privacy, and information security.

702.2 DEFINITIONS

Smart Device: A personally owned electronic device capable of communicating, connecting to networks, recording, storing, processing, or transmitting information.

Restricted Wearable Technology: Personally owned wearable technology designed or capable of hands-free recording, livestreaming, artificial intelligence processing, or automated capture of audio, video, images, or other information.

Examples include, but are not limited to:

(a) Smart glasses capable of recording or AI processing

(b) Wearable cameras

(c) AI-enabled wearable devices

(d) Similar current or emerging technologies

702.3 POLICY

Employees may possess and use personally owned smart devices while on duty provided the devices do not interfere with official duties and are used in compliance with Department policy.

Routine use of common personal technology, including smart watches, wireless earbuds, fitness trackers, smartphones, and similar devices, is permitted for ordinary functions such as calls, messaging, notifications, navigation, authentication, or health monitoring.

Personally owned wearable technology capable of hands-free recording, livestreaming, artificial intelligence processing, or automated capture of audio, video, images, or other information shall not be worn, activated, or used while on duty, acting in an official capacity, or within secured Department facilities unless authorized by the Chief of Police or designee.

Personally owned smart devices and wearable technology shall not be used as a substitute for Department-issued recording systems, body-worn cameras, or authorized evidence collection procedures.

This policy does not apply to Department-issued equipment or technology authorized for official use or to stipend phones used in accordance with NBPD Policy Manual §703.5 – Audio/Video/ Photographs.

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702.3.1 VIOLATIONS

Violations of this policy may result in corrective or disciplinary action consistent with applicable law, Department policy, applicable memoranda of understanding, and City personnel rules.

702.3.2 RELATED POLICIES

Employees should be familiar with related Department policies, including:

(a) Smart Phone Stipends

(b) Protected Information

(c) Computers and Digital Evidence

(d) Mobile Audio/Video, Body Worn Cameras and Other Video Systems

(e) Records Maintenance and Release

702.4 PROHIBITED USE

Employees shall not use personally owned smart devices or wearable technology to:

(a) Record, capture, transmit, store, process, or disclose Department information, Department operations, evidence, or information obtained through official duties unless authorized by law, Department policy, or a supervisor acting within the scope of their authority.

(b) Capture, transmit, store, or process investigative information, crime scenes, interviews, witness statements, suspect contacts, tactical operations, reports, Department computer systems, radio communications, or other law enforcement-sensitive information except through Department-authorized systems.

(c) Capture, transmit, store, process, or disclose protected information, including criminal justice information (CJI), protected health information (PHI), personally identifiable information (PII), personnel information, or other information protected by law or Department policy.

(d) Use artificial intelligence platforms, cloud-based services, automated transcription, or similar technology to process Department information unless authorized by Department policy.

(e) Circumvent Department policies governing body-worn cameras, evidence collection, records management, electronic communications, protected information, or information technology security.

702.5 DEPARTMENT-ISSUED PCD

Depending on an employee's assignment and the needs of the position, the Department may, at its discretion, issue a PCD. Department-issued PCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

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Unless an employee is expressly authorized by the Chief of Police or the authorized designee for off-duty use of the PCD, the PCD will either be secured in the workplace at the completion of the tour of duty or will be turned off when leaving the workplace.

702.6 USE OF THE PCD

Employees may carry and use their individually owned PCD or Department issued PCD while on duty subject to the following conditions:

(a) The device shall be purchased, used and maintained at the employee's expense.

(b) The PCD shall not affect access to safety equipment.

(c) The PCD shall not lend to an unprofessional uniform or personal appearance.

(d) Uniformed employees shall use PCDs to effectively communicate with other personnel, dispatchers and others only in those situations where the use of the radio is either impractical or not feasible. However, PCDs shall not be used to replace regular radio communications.

(e) Employees are permitted to use PCDs to make or accept personal calls on a limited basis while on duty provided the conversations do not prevent the employee from timely performing his/her normal duties. While employees may use individually owned PCDs 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 members of the public.

Extended or frequent use of Department issued PCDs or personally owned PCDs while on duty for personal use may be subject to discipline.

702.6.1 USE WHILE DRIVING

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Employees operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD. If it is necessary to use a PCD while driving, employees shall use a hands-free listening and talking device.

Except in an emergency, employees who are operating non-emergency Department vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use (Vehicle Code § 23123). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

702.7 PRIVACY POLICY

Employees shall have no expectation of privacy with regard to any communication made with or stored in or through PCDs issued by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities. The use of any department-provided PCD, computer, Internet service, telephone service or other wireless service while on-duty is without any expectation of privacy that the employee might otherwise have in any communication, including the content of any such communication. Communications or data

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reception on personal, password-protected, web-based e-mail accounts and any other services are subject to monitoring if department equipment is used.

In accordance with this policy, supervisors are authorized to conduct a limited administrative search of electronic files without prior notice, consent or a search warrant, on department-issued PCDs. Administrative searches can take place for work-related purposes that may be unrelated to investigations of employee misconduct and, as practicable, will be done in the presence of the affected employee. Prior to conducting any search of personally owned devices, supervisors shall consult with the Chief of Police. All such searches shall be fully documented in a written report.

702.8 PERSONALLY OWNED PCD

Employees may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

(a) Carrying a personally owned PCD is a privilege, not a right.

(b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.

(c) Employees shall promptly notify the Department in the event the PCD is lost or stolen.

(d) The PCD and any associated services shall be purchased, used and maintained solely at the employee's expense.

(e) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Employees will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication.

(f) The device shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment with the Department, in accordance with NBPD Policies 446 and 703.

(g) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Employees shall endeavor to limit their use of PCDs to authorized break times.

(h) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any employee having knowledge of such conduct shall promptly notify a supervisor.

Except with prior express authorization from their supervisor, employees are not obligated or required to carry, access, monitor or respond to electronic communications using a personally owned PCD while off-duty. If an employee is in an authorized status that allows for appropriate compensation consistent with policy or existing collective bargaining agreements, or if the employee has prior express authorization from his/her supervisor, the employee may engage in business-related communications. Should employees engage in such approved off-duty communications or work, employees entitled to compensation shall promptly document the time

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worked and communicate the information to their supervisor to ensure appropriate compensation. Employees who independently document off-duty department-related business activities in any manner shall promptly provide the Department with a copy of such records to ensure accurate record keeping.

702.9 SUPERVISORY RESPONSIBILITIES

Supervisors should ensure that members under their command are provided appropriate training on the use of PCDs consistent with this policy. Supervisors should monitor, to the extent practicable, PCD use in the workplace and take prompt corrective action if an employee is observed or reported to be improperly using a PCD. An investigation into improper conduct should be promptly initiated when circumstances warrant.

If, when carrying out any provision of this policy, the need to contact an employee who is off-duty arises, supervisors should consider delaying the contact, if practicable, until the employee is on-duty, as such contact may be compensable.

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Smart Phone Stipends

703.1 PURPOSE AND SCOPE

The purpose of this policy is to describe smart phone stipends provided to Newport Beach Police Department employees and provide direction on the required use of the stipend. The scope of this policy includes the smart phone stipend, any smart phone purchased or leased with the stipend and the proper usage of the stipend phone and all related technology systems provided by the Department and the information contained therein.

703.1.1 DEFINITIONS

Definitions related to this policy include:

Smart Phone Stipend – (also "Stipend") A monthly allowance, in an amount determined by the City of Newport Beach, provided to designated employees to cover the cost of purchase or lease of a smart phone, cellular data subscription and all related charging cables, cases and other accessories.

Smart Phone – A cellular telephone that operates on either Apple iOS or Android and is capable of accessing apps, the Internet, Department email and other technology systems as required by the Department.

Stipend Phone – A smart phone purchased or leased using the smart phone stipend for use of designated employees while on duty.

Required Apps –Applications ("apps") that are required to be installed on the stipend phone and actively logged on and functioning while an employee is on duty.

On Duty – For the purposes of this policy, on-duty refers to any time period when a Department employee is conducting official Department business, including regularly scheduled work shifts, overtime and call-backs. An off-duty employee who receives a phone call or other communication requiring a response to the City, requesting supervisory approval, providing notification or seeking the employee's expertise shall be considered on-duty for the duration of the needed work activity.

Official Department Business – Work activities conducted while on duty that are within the normal course and scope of an employee's assigned duties.

Department Technology Systems – Any electronic system, application or equipment provided by the Department to be used for official department business.

Designated Employees– Employees of the Newport Beach Police Department who receive a smart phone stipend and are required to have a stipend phone:

- Command Staff
- Lieutenants
- Sergeants
- Police Officers

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- Civilian Investigators, except the Court Liaison Officer
- Crime Scene Investigators
- Civilian employees assigned to field duties, including, but not limited to:
  - Animal Control Officers and Supervisors
  - Parking Control Officers and Supervisors
- Other employees as determined by the Department

703.2 POLICY

It is the policy of the Newport Beach Police Department to provide smart phone stipends to enable designated employees to fulfill the Department's public safety mission through access to important Department technology systems while on duty. The primary purpose for the stipend is to allow employees to access these systems, including email, while they are in the field and away from a Department computer and only while on duty.

Receipt of the smart phone stipend and possession of a stipend phone does not place an employee in an "on-call" status.

Employees receiving a smart phone stipend shall comply with all City of Newport Beach and Department rules concerning acceptance of the smart phone stipend, utilization of the stipend phone and the proper use of Department-provided systems. Employees shall ensure that sensitive law enforcement information contained in these systems and accessed from the stipend phone is properly safeguarded from unauthorized or unlawful access by anyone without a proper need-to-know, right-to-know and proper background clearance, as defined in CJIS and CLETS security policies.

703.3 EMPLOYEE RESPONSIBILITIES

Designated employees are required to accept the smart phone stipend and shall possess a smart phone for use while on duty that is capable of accessing Department technology systems, as defined above.

703.3.1 REQUIRED APPLICATIONS/PROGRAMS

The Department shall maintain a separate list of required apps that must be installed on the stipend phone, depending on the employees' assignment.

703.3.2 REQUIRED USE OF THE STIPEND PHONE WHILE ON-DUTY

Designated employees shall have the stipend phone with them at all times while on duty, should check the stipend phone regularly and respond to incoming communication, including phone calls, text messages and emails. Designated employees shall ensure that the required apps are logged on and functioning and should monitor the required apps for business activity while on duty.

703.3.3 MANDATORY FORMS

Each employee receiving a smart phone stipend will be required to complete and sign the required City of Newport Beach and Department forms. The forms shall include the phone number assigned

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to the stipend phone and employee acknowledgement and acceptance of this policy and the list of required apps.

703.4 NO EXPECTATION OF PRIVACY

References: City of Newport Beach Employee Policy Manual, Appendix C, Section 5

Newport Beach Police Department Policy Manual, Section 702.3

The smart phone stipend is provided to designated employees to enable access to Department-provided technology systems and the Internet while on duty; therefore, employees shall have no right or expectation of privacy in any form of communication, files, data, or access records created, transmitted, received, deleted or stored in the course of official department business using the stipend phone.

703.4.1 DUTY TO SEARCH AND PROVIDE STIPEND PHONE CONTENTS

Upon request by an authorized Department supervisor, employees shall conduct a thorough search of their stipend phone for any relevant information relating to official department business or an administrative investigation.The results of the search and any relevant information contained in the stipend phone shall be provided to the requesting supervisor in a timely manner.

703.5 AUDIO / VIDEO / PHOTOGRAPHS

Employees shall only use the Axon Capture app on a stipend phone to take photographs or record audio or video while on duty, in the field and in the course and scope of their assigned duties. Digital cameras and personally-owned cell phones or other digital devices may not be used to take official photos, audio or video under any circumstances.

703.5.1 EXCEPTIONS

Employees may record audio or video using Department-provided body-worn cameras, mobile audio/video systems, unmanned aerial systems (drones), digital audio recorders or take photographs using higher quality digital cameras used by Crime Scene Investigators.

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Vehicle Use

706.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure department vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of department vehicles and shall not be construed to create or imply any contractual obligation by the City of Newport Beach to provide assigned take-home vehicles.

Additional guidelines for member responsibilities when transporting persons in custody may be found in the Transporting Persons in Custody Policy.

706.2 POLICY

The Newport Beach Police Department provides vehicles for department-related business and may assign marked and unmarked vehicles based on a determination of operational efficiency, economic impact to the Department, requirements for tactical deployments, and other considerations.

706.2.1 SHIFT ASSIGNED VEHICLES

Personnel assigned to routine scheduled field duties shall log onto the in-car computer inputting the required information when going on duty. If the vehicle is not equipped with a working in-car computer, they shall notify IT Staff or check out a working computer with the Watch Commander. If the employee exchanges vehicles during the shift, the new vehicle number shall be entered into the Computer Aided Dispatch (CAD).

Employees shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shift. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

706.2.2 UNSCHEDULED USE OF VEHICLES

Personnel utilizing a vehicle for any purpose other than their normally assigned duties shall first notify the Watch Commander and/or an appropriate Division Supervisor of the reasons for use and a notation will be made on the patrol shift roster and/or Division vehicle assignment log indicating the operator's name and vehicle number. This section does not apply to personnel assigned an individual vehicle (e.g., command staff, detectives).

706.2.3 SPECIALTY VEHICLES

Specialty vehicles (e.g., SWAT van, Rescue vehicle, Command Post) shall not be used without first obtaining approval from the respective unit supervisor and/or Watch Commander.

706.2.4 DETECTIVE DIVISION VEHICLES

Detective Division vehicle use is restricted to detective personnel unless approved by a detective supervisor or Watch Commander. Any use of Detective Division vehicles by personnel not

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assigned to the Detective Division shall obtain permission from the Detective Supervisor approving the use.

706.2.5 AUTHORIZED PASSENGERS
Personnel operating department owned vehicles shall not permit persons other than City employees or persons required to be conveyed in the performance of duty or as otherwise authorized to ride as a passenger in their vehicle.

706.2.6 INSPECTIONS
The interior of any vehicle that has been used to transport any person other than an employee should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized items have not been left in the vehicle.

706.2.7 OPERATION OF MARKED VEHICLES BY NON-SWORN PERSONNEL
Non-sworn employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Unless directed by a supervisor or in an emergency situation, non-sworn employees shall also prominently display the "out of service" placards or lightbar covers at all times and return the placards and covers to the designated storage location when the assignment is completed. Non-sworn employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

706.2.8 PARKING
City owned vehicles should be parked in their assigned stalls. Employees shall not park privately owned vehicles in any stall assigned to a City owned vehicle or in other areas of the parking lot not designated as a parking space unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

706.3 USE OF ALCOHOLIC BEVERAGES IN CONNECTION WITH USE OF CITY VEHICLES

Employees are required to strictly adhere to the City's Drug and Alcohol Policy (Appendix B of the Employee Policy Manual) when operating a City vehicle or privately-owned vehicle on official City business.

706.3.1 VEHICLES SUBJECT TO INSPECTION
All City owned vehicles are subject to inspection and or search at any time by a supervisor and no employee assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

706.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES

Department vehicles may be assigned to individual members at the discretion of the Chief of Police. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

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The assignment of vehicles may be suspended when the member is unable to perform the member's regular assignment.

706.4.1 KEYS

All uniformed field personnel approved to operate marked patrol vehicles shall be issued their own personal unit key as part of their initial equipment distribution upon hiring. Personnel assigned a permanent vehicle shall be issued keys for their respective vehicle. The loss of any assigned key shall be promptly reported in writing through the employee's chain of command.

706.5 ENFORCEMENT ACTIONS

When driving an assigned vehicle to and from work outside of the jurisdiction of the Newport Beach Police Department, an officer may conduct enforcement action. Prior to any enforcement action, the officer should consider the seriousness of the violation and necessity of action with officer safety, resource availability, and radio connectivity.

706.6 MAINTENANCE AND DAMAGE

Each employee is responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicle.

(a) If necessary, Employees may use approved car washes or trustees (with prior approval of Jail Supervisor) to clean vehicles.

(b) Employees shall ensure that vehicles are filled with gasoline at end of shift.

(c) Employees shall remove all trash from the interior at the completion of their use.

(d) Employees shall inflate tires as needed.

706.6.1 ACCESSORIES AND/OR MODIFICATIONS

No modifications, additions or deletions of any equipment or accessories shall be made to the vehicle without written permission from the Chief of Police or Support Services Division Commander.

706.6.2 DEFECTIVE VEHICLES

When a department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed. The paperwork shall be promptly forwarded to vehicle maintenance for repair.

706.6.3 SEVERE USE

Vehicles operated under severe-use conditions, which included operations for which the vehicle is not designed or that exceed the manufacturer's parameters, should be removed from service and subjected to a safety inspection as soon as practicable. Such conditions may include rough roadway or off-road driving, hard or extended braking, pursuits, or prolonged high-speed operation.

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706.6.4 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged, or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

706.7 INOPERATIVE OR UNSAFE DEPARTMENT VEHICLE

When an employee is assigned a vehicle that needs service or becomes inoperative or unsafe, the employee shall:

(a) Advise the Watch Commander and Communications.

(b) Have the vehicle towed to the Department if necessary

(c) Enter the required automotive service into the fleet system computer

(d) Place a red tag (not drivable) or yellow tag (drivable) with the keys on the keyboard.

706.8 TOLL ROAD USAGE

Law enforcement vehicles are not routinely exempted from incurring toll road charges. Pursuant to the non-revenue policy of the toll roads, law enforcement agencies responding to an emergency or incident on the toll roads, while on duty, are exempt from paying the toll. Commuting, or returning to the City after an emergency does not qualify for this exemption and personnel using City owned vehicles are subject to the toll charge. To avoid unnecessary toll road violation charges, all employees operating a City owned vehicle upon the toll road shall adhere to the following:

(a) All employees operating a City owned vehicle for any reason other than an initial response to an emergency shall pay the appropriate toll charge. Employees may submit for reimbursement from the City for any toll fees.

706.9 VEHICLE EQUIPMENT

706.9.1 PATROL VEHICLES

A member of the Volunteer Unit, or designee shall be responsible for supplying assigned patrol vehicles with certain equipment. Officers shall inspect the patrol vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is present in the vehicle:

- 20 Emergency road flares
- 1 Roll Crime Scene / Barricade Tape
- 1 First aid kit
- Protective gloves
- 1 Evidence collection kit
- Automated External Defibrillator (AED)
- Fire Extinguisher
- Less Lethal -.40mm Pepper Ball Gun
- Assigned Rifle

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- Spit Mask
- Padded Helmet

706.9.2 INSPECTION

Patrol Sergeants will be responsible for inspecting their assigned personnel's vehicle every two months. This inspection will consist of looking for any damage to the vehicle. Cleanliness inside and outside of the vehicle. All assigned vehicle equipment (i.e. Rifle, less-lethal shotgun, first-aid kit, flares, police line tape, etc.) is present and in good working order.

Additionally, the Patrol Watch Commander will be responsible for inspecting their assigned sergeant's vehicles. When a deficiency is identified (damage to the vehicle, missing or malfunctioning equipment, cleanliness inside or out), that officer/sergeant will be directed to repair, replace, document, or clean the vehicle as soon as practical.

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Military Equipment Use Policy

707.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment in accordance with Government Code § 7070, et seq.

707.1.1 DEFINITIONS

Definitions related to this policy as defined in Government Code § 7070:

Governing body – The governing body for the Newport Beach Police Department is the City Council of the City of Newport Beach.

Military equipment – Includes but is not limited to the following categories:

- 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 and utilize a tracked system instead of wheels for forward motion.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, 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 assault weapons as defined in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue weapons and ammunition of less than.50 caliber that are issued to officers or employees.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- "Flashbang" grenades and explosive breaching tools, 'tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.
- Area denial electroshock devices, microwave weapons, water cannons, long-range acoustic devices, acoustic hailing devices, and sound cannons.
- Projectile launch platforms and associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

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707.2 POLICY

It is the policy of the Newport Beach Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

707.3 MILITARY EQUIPMENT COORDINATOR

The Support Services Lieutenant is designated 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 Newport Beach Police Department (Government Code § 7071).

(e) Preparing for, scheduling, and coordinating the annual community engagement meeting as described below in section 707.7.

(f) Preparing the annual military equipment report for submission to the Chief of Policefor subsequent approval by the City Council 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.

707.4 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the Military Equipment Use Policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed Military Equipment Use 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 Use 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.

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(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.

Approved military equipment or its equivalent may be purchased for replacement or replenishment throughout the calendar year. Such purchases will be detailed in the annual report.

707.5 COORDINATION WITH OTHER JURISDICTIONS

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless they have adopted a Military Equipment Use Policy as required by Government Code § 7071-7075 and in compliance with their agency's policies and all state and federal laws and regulations.

707.6 ANNUAL REPORT

Upon approval of a Military Equipment Use Policy, the Chief of Police or the authorized 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 the authorized designee shall 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 the Newport Beach Police Department inventory.

707.7 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Newport Beach Police 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.

707.8 QUESTIONS, CONCERNS AND COMPLAINTS PROCEDURE

In accordance with Section 707.3(g) defined above, the procedure for a person to register a complaint, concern or question is through one of the methods listed below:

- Via US Mail or in person: Complaint forms are available at the front desk or inquiries can be mailed to:

  Newport Beach Police Department

  870 Santa Barbara Drive

  Newport Beach, CA 92660

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- Via email: info@nbpd.org
- By telephone: (949) 644-3681
- Online: www.nbpd.org/complaints

The department will respond to questions, concerns or complaints regarding this policy or the use of military equipment within 10 business days of receipt by the department.

707.9 COMPLIANCE

The Professional Standards Unit shall ensure that all department members comply with this policy and is responsible for investigating violations of this policy and investigating complaints regarding the use of military equipment.

707.10 MAINTENANCE OF OPERATIONAL INVENTORY LEVELS

The Newport Beach Police Department is authorized to procure and maintain an appropriate inventory of the approved military equipment specified in this policy, including associated ammunition and munitions, necessary to ensure operational capabilities of the department.

707.11 MILITARY EQUIPMENT INVENTORY

The inventory attached as Appendix A constitutes a list of qualifying equipment and associated ammunition and munitions for the Newport Beach Police Department.

Appendix A

Newport Beach Police Department

Military Equipment Inventory

Robot	
Category	1
Description	Recon Robotics Throwbot XT
Initial Cost	$15,251 each
Year Acquired	2013
Current Quantity	2
Description/Capabilities	This robot is a battery powered, remote operated device equipped with one camera and audio capability. The device is intended for use during high-risk incidents. Use is limited to members of the department's Crisis Response Unit (CRU) or with authorization of the on-duty Watch Commander. Incidents that may qualify for its use include, but are not limited to, a high-risk warrant service, barricaded subject, and hostage negotiation/ rescue.
Purpose	To be used to remotely gain visual/audio data.

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Military Equipment Use Policy

Authorized Use	Use is established by the Incident Commander or on-duty Watch Commander. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 321 – Search and Seizure, and NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	10 years
Fiscal Impact	No known annual maintenance cost.
Unmanned Aerial Vehicle	
Category	1
Description	Skydio X10 unmanned aerial vehicle (UAV)
Initial Cost	$737,113
Year Acquired	2026
Current Quantity	12

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Military Equipment Use Policy

Description/Capabilities	The Skydio X10 is a small UAV designed for aerial observation, documentation, mapping, inspection, and situational awareness. The aircraft is equipped with autonomous flight technology, obstacle avoidance, high-resolution visible-light cameras, and a radiometric thermal imaging camera. The X10 can be operated manually by a trained pilot or utilize Skydio's autonomous flight capabilities to assist with navigation and obstacle avoidance. It has a flight speed of approximately 45 mph and a maximum flight time of approximately 40 minutes. The X10's sensor packages provide multiple imaging capabilities including high definition video, and thermal imaging for low-light and nighttime conditions. The X10 incorporates 360-degree obstacle sensing and computer-vision-based navigation, allowing it to detect and avoid obstacles during flight. Its onboard processing and autonomy capabilities can assist the operator with flight navigation, subject tracking, and operation in complex environments. The aircraft's navigation system incorporates six cameras for environmental perception and obstacle detection. A full description of the Skydio X10 is available on the manufacturer's website: www.skydio.com/x10

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Military Equipment Use Policy

Purpose	The Skydio X10 is intended to enhance the department's emergency response capabilities as part of the Drone as First Responder (DFR) program, providing advanced situational awareness during critical incidents. In addition to its role in the DFR initiative, it will also be deployed on patrol to support various operations as needed. The UAV will provide aerial overwatch to assist officers and incident commanders in situations including, but not limited to: (a) Response to emergency calls (b) Locating missing persons (c) Crime scene and major collision investigations (d) Natural disaster management (e) Tactical, or other public safety/life preservation operations. (f) Fire detection, response and/or prevention.
Authorized Use	Response to the situations described above by authorized personnel who have successfully completed the required training and hold a valid FAA Part 107 Remote Pilot Certificate and in compliance with NBPD Policy 378 – Unmanned Aerial System
Expected Lifespan	Approximately 5 years
Fiscal Impact	Annual Cost (includes all maintenance, hardware, software): $735,810
Unmanned Aerial Vehicle	
Category	1
Description	Skydio R10 unmanned aerial vehicle (UAV)
Initial Cost	$7,416
Year Acquired	2026
Current Quantity	1

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Description/Capabilities	The Skydio R10 is a compact unmanned aerial vehicle (UAV) manufactured by Skydio, Inc. The R10 is designed primarily for indoor, confined-space, and close-range operations where entering a structure or hazardous environment may expose personnel to unnecessary risk. The system consists of a small aircraft, flight controller, batteries, charging equipment, protective case, and associated software/cloud services. The R10 weighs approximately 1.73 pounds including its battery and measures approximately 10.4 by 10.3 by 2.4 inches. It is equipped with enclosed propeller guards, obstacle-avoidance technology, vision-based navigation, onboard LED lighting, and Skydio NightSense technology for operation in dark or low-light environments. The aircraft can operate without GPS and is specifically designed for confined indoor environments. A full description of the Skydio R10 is available on the manufacturer's website: www.skydio.com/r10.
Purpose	To support tactical operations and interior searches and provide advanced aerial surveillance to enhance situational awareness and officer safety. It is designed for use in a variety of critical scenarios, including interior searches, high-risk entries, building clearances, and other tactical situations where a small UAV designed for interior use is essential.
Authorized Use	Response to the situations described above by authorized personnel who have successfully completed the required training and hold a valid FAA Part 107 Remote Pilot Certificate and in compliance with NBPD Policy 378 – Unmanned Aerial System
Expected Lifespan	Approximately 5 years
Fiscal Impact	Annual cost (includes all maintenance, hardware, software): $7,416
Armored Personnel Carrier, Vehicle with Entry Apparatus Attached	
Category	2 & 3

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Military Equipment Use Policy

Description	2014 Lenco BearCat G2 Armored Rescue Vehicle (ARV)
Initial Cost	$233,872
Year Acquired	2014
Current Quantity	1
Description/Capabilities	The Lenco BearCat G2 is the standard tactical armored vehicle for special operations units within the US Law Enforcement community. Since the early 2000s, agencies such as LAPD, LASD SEB, NYPD ESU, Boston PD and hundreds of Federal, State and Local Law Enforcement agencies have made the BearCat G2 part of their standard operating procedure. The G2 has excellent on-road driving characteristics and maneuverability in tight urban settings. The large floor plan seats 10 – 12 fully equipped officers with a long list of tactical features only found on the Lenco BearCat line of armored SWAT vehicles for Police and Government. The ARV is designed to provide ballistic protection during tactical events (designed to withstand multiple bullet strikes from small arms fire as well as low-level explosions). Equipped with emergency lights/siren and a public address system. Common uses for the ARV include citizen and officer rescues, evacuations, and the deployment of officers. The ARV is a mutual-aid asset that has been requested and deployed to allied agencies in Orange County, including Irvine, Laguna Beach, Costa Mesa, and Tustin.
Purpose	To be used in response to critical incidents to enhance officer and community safety, improve scene containment and stabilization, and assist in resolving critical incidents.

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Authorized Use	The use of armored vehicles shall only be authorized by a watch commander or SWAT commander, based on the specific circumstances of a given critical incident. Armored vehicles shall be used only by officers trained in their deployment and in a manner consistent with Department policy and training. The driver of the vehicle shall have a valid California driver license. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 706 – Vehicle Use, and NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	15 years
Fiscal Impact	Annual maintenance cost of approximately $2,500
Command and Control Vehicles	
Category	5
Description	2016 Freightliner 3500 Sprinter van, custom upfit by Farber
Initial Cost	$159,090
Year Acquired	2016
Current Quantity	1
Description/Capabilities	The command post (CP) vehicle is a two-axle panel van with front doors, a sliding passenger side door, and rear doors. It is capable of being used as a mobile operations and dispatch center, as an auxiliary command vehicle during major incidents/ events and as a negotiation/communication center by the Crisis Negotiations Team. The vehicle is painted white with no police graphics affixed to the exterior. The equipment housed in the vehicle includes, a negotiations control console and accessories, communications throw phone and cables, miscellaneous office supplies, tabletops, chairs, and storage space. The vehicle is also capable of transporting personnel and equipment.
Purpose	To be utilized for critical incident callouts and major events.
Authorized Use	The CP can used by employees who have been properly trained in the safe handling of the vehicle. The driver of the vehicle shall have a valid California driver license. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 706 – Vehicle Use, and NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	10 years
Fiscal Impact	Annual maintenance cost of approximately $1,000
Command and Control Vehicles	

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Military Equipment Use Policy

Category	5
Description	2025 Braun Northwest North Star 234-5 Crisis Response Unit Command Vehicle
Initial Cost	$382,625
Year Acquired	2026
Current Quantity	1
Description/Capabilities	The North Star 234-5 Command Vehicle is a Ford F-650 commercial truck chassis with ambulance-type box and custom configured compartments. The vehicle is for the use of the Crisis Response Unit (SWAT) as a command vehicle and to store and transport weapons and equipment. The vehicle will be configured to store the different pieces of equipment used by SWAT (weapons, ammunition, 40mm launchers and projectiles, manual breaching tools, robot, ballistic vests, etc.). The vehicle will also be equipped with radio equipment, monitors, white boards and other equipment needed to support its use a command vehicle.
Purpose	To be used to store and transport Crisis Response Unit equipment and operate as a command post for managing critical incidents, large events, natural disasters or community events.
Authorized Use	The North Star Command Vehicle shall be used by officers trained in its deployment and in a manner consistent with Department policy and training. The driver of the vehicle shall have a valid California driver license. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 706 – Vehicle Use, and NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	15 years
Fiscal Impact	Annual maintenance cost of approximately $5,000
Breaching Apparatus	
Category	7
Description	Remington 870 Breaching Shotgun.
Initial Cost	Approximately $500 each
Year Acquired	Approximately 2005
Current Quantity	2

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Description/Capabilities	This specialized shotgun allows officers to safely utilize shotgun breaching rounds in order to destroy deadbolts, locks, and hinges. The stand-off device that is attached to the end of the barrel allows for positive placement of the shotgun into the correct position and vents gases to prevent overpressure.
Purpose	To safely gain entry into a structure.
Authorized Use	Shotgun breaching may only occur after authorization by the Incident Commander or SWAT Commander in the field, or during training exercises. Only officers trained in shotgun breaching are allowed to utilize this device. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 321 – Search and Seizure, and NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	25 years
Fiscal Impact	No annual cost
Breaching Apparatus Ammunition	
Category	7
Description	Royal Arms TESCR #3, green cap 365 grain tactical shotgun round
Initial Cost	$5.00 per round
Year Acquired	Continuously, beginning 17+ years ago
Current Quantity	40
Description/Capabilities	Shotgun breaching rounds are specialty shotgun shells utilized for door breaching. The breaching rounds contain compressed copper powder and are fired through a specialized breaching shotgun barrel. The copper powder is designed to strike and destroy the lock throw inside of the door, allowing entry into the room or structure. The powder is designed to dissipate after striking the lock throw in order to minimize entry into the target space for the safety of occupants and operators. Royal Arms TESCR #3 rounds are good until expended if stored properly. Shotgun breaching rounds are used to gain rapid access to a room or structure when an emergent law enforcement need exists
Purpose	Ammunition for Breaching Shotgun.

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Authorized Use	Shotgun breaching may only occur after authorization by the Incident Commander or SWAT Commander in the field, or during training exercises. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 321 – Search and Seizure, and NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	Until expended
Fiscal Impact	$4 per round. Annual cost between $0 and $200
Specialized Firearms	
Category	10
Description	Heckler & Koch MP5 9mm submachine gun
Initial Cost	Unknown (purchased over 30 years ago)
Year Acquired	1992 (estimated)
Current Quantity	8
Description/Capabilities	The MP5 is a lightweight, air-cooled, selective fire, delayed blowback weapon with a roller-delayed bolt that fires a 9mm round. The firearm is highly portable and is capable of accurately stopping an armed subject at various distances.
Purpose	To be used as a hand held weapon to address a threat with more precision and/or greater distances than a handgun, if present and feasible.
Authorized Use	Only members that are POST certified are authorized to use a submachine gun. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	40 years
Fiscal Impact	No annual cost
Specialized Firearms	
Category	10
Description	Colt M4.223 caliber carbine rifle
Initial Cost	$950
Year(s) Acquired	2002-2017
Current Quantity	5

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Description/Capabilities	The carbine rifle is a firearm, capable of accurately stopping an armed subject at various distances. It is a lightweight, air-cooled, gas operated, magazine fed, shoulder fired weapon, designed for semi-automatic and selective fire. The Colt M4 rifle can be used indefinitely and will need to be serviced or replaced when the rifle fails or breaks. The.223/5.56 cartridge is used as a lethal option designed to stop a violent encounter. The projectile is capable of penetrating soft body armor being worn by armed subjects.
Purpose	To be used as hand held weapon to address a threat with more precision and/or greater distances than a handgun, if present and feasible.
Authorized Use	Only members that are POST certified are authorized to use a carbine rifle. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	25 years
Fiscal Impact	No annual cost
Specialized Firearms	
Category	10
Description	Bushmaster M4.223 caliber carbine rifle
Initial Cost	$825
Year(s) Acquired	2007-2012
Current Quantity	17
Description/Capabilities	The carbine rifle is a firearm, capable of accurately stopping an armed subject at various distances. It is a lightweight, air-cooled, gas operated, magazine fed, shoulder fired weapon, designed for semi-automatic & selective fire. The Bushmaster M4 rifle can be used indefinitely and will need to be serviced or replaced when the rifle fails or breaks. The.223/5.56 cartridge is used as a lethal option designed to stop a violent encounter. The projectile is capable of penetrating soft body armor being worn by armed subjects.
Purpose	To be used as hand held weapon to address a threat with more precision and/or greater distances than a handgun, if present and feasible.

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Authorized Use	Only members that are POST certified are authorized to use a carbine rifle. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	25 years
Fiscal Impact	No annual cost
Specialized Firearms	
Category	10
Description	Accuracy International .308 Winchester caliber precision rifle
Initial Cost	$5,945 to 6,445
Years(s) Acquired	2014-2020
Current Quantity	3
Description/Capabilities	The Newport Beach Police Department SWAT Team is specifically trained and equipped to resolve potentially dangerous or hazardous incidents. The Sniper element of the SWAT Team deploys with.308 caliber precision rifles, which enable the stopping of an armed subject at a safe distance. The precision rifle can be used indefinitely and will need to be serviced or replaced when the rifle fails or breaks.
Purpose	To be used as precision weapons to address a threat with more precision and/or at greater distances than a handgun, if present and feasible.
Authorized Use	Only members that are POST certified are authorized to use a precision rifle. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	10-12 years
Fiscal Impact	No annual cost
Specialized Firearms	
Category	10
Description	Remington 700 .308 Winchester caliber precision rifle.
Initial Cost	$4,464
Year Acquired	2013
Current Quantity	2

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Description/Capabilities	The Newport Beach Police Department SWAT Team is specifically trained and equipped to resolve potentially dangerous or hazardous incidents. The Sniper element of the SWAT Team deploys with.308 caliber precision rifles, which enable the stopping of an armed subject at a safe distance. The precision rifle can be used indefinitely and will need to be serviced or replaced when the rifle fails or breaks.
Purpose	To be used as precision weapons to address a threat with more precision and/or at greater distances than a handgun, if present and feasible.
Authorized Use	Only members that are POST certified are authorized to use a precision rifle. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	10-12 years
Fiscal Impact	No annual cost
Specialized Firearms	
Category	10
Description	LWRC REPR .308 Winchester caliber precision rifle
Initial Cost	$5,943
Year Acquired	2015
Current Quantity	1
Description/Capabilities	The Newport Beach Police Department SWAT Team is specifically trained and equipped to resolve potentially dangerous or hazardous incidents. The Sniper element of the SWAT Team deploys with.308 caliber precision rifles, which enable the stopping of an armed subject at a safe distance. The precision rifle can be used indefinitely and will need to be serviced or replaced when the rifle fails or breaks.
Purpose	To be used as precision weapons to address a threat with more precision and/or at greater distances than a handgun, if present and feasible.
Authorized Use	Only members that are POST certified are authorized to use a precision rifle. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.

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Expected Lifespan	10-12 years
Fiscal Impact	No annual cost
Specialized Firearms	
Category	10
Description	DTA SRS .308 Winchester caliber precision rifle
Initial Cost	$5,825
Year Acquired	2015
Current Quantity	1
Description/Capabilities	The Newport Beach Police Department SWAT Team is specifically trained and equipped to resolve potentially dangerous or hazardous incidents. The Sniper element of the SWAT Team deploys with.308 caliber precision rifles, which enable the stopping of an armed subject at a safe distance. The precision rifle can be used indefinitely and will need to be serviced or replaced when the rifle fails or breaks.
Purpose	To be used as precision weapons to address a threat with more precision and/or at greater distances than a handgun, if present and feasible.
Authorized Use	Only members that are POST certified are authorized to use a precision rifle. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	10-12 years
Fiscal Impact	No annual cost
Specialized Firearms Ammunition	
Category	10
Description	Hornady .308 Winchester 168 grain, A-Max TAP cartridge
Initial Cost	$231 per 200 round case
Year Acquired	Continuously beginning 5 years ago
Current Quantity	3,000 (approximate current inventory)
Description/Capabilities	The .308 Winchester (.308 WIN) cartridge is a rimless, bottlenecked rifle cartridge used as a lethal option designed to stop a violent encounter. The projectile is capable of penetrating soft body armor worn by armed subjects. The 168 grain projectile maintains accuracy, while resulting in higher impact velocities, less drop, less wind drift, and more energy on target.

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Purpose	The Hornady .308 WIN 168 grain, A-Max TAP cartridge is deployed during potential lethal encounters at longer distances.
Authorized Use	Only members that are POST certified are authorized to use a precision rifle and this ammunition. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	Until expended
Fiscal Impact	$0 to $3,700 annually, depending on usage
Specialized Firearms Ammunition	
Category	10
Description	Hornady .308 Winchester 168 grain, GMX TAP cartridge
Initial Cost	$231 per 200 round case
Year Acquired	Continuously, beginning 5 years ago
Current Quantity	200
Description/Capabilities	The.308 WIN cartridge is a rimless, bottlenecked rifle cartridge used as a lethal option designed to stop a violent encounter. The projectile is capable of penetrating soft body armor being worn by armed subjects.
Purpose	The Hornady.308 WIN 165 grain, GMX TAP Heavy Barrier cartridge is deployed during potential lethal encounters at longer distances. The GMX bullet penetrates heavy barriers while still delivering terminal performance through heavy barriers.
Authorized Use	Only members that are POST certified are authorized to use a precision rifle. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	Until expended
Fiscal Impact	$0 to $3,700 annually, depending on usage
Flashbang Grenades	
Category	12
Description	Combined Tactical Systems CTS 7290 NFDD
Initial Cost	$72 each
Year Acquired	Continuously, beginning 5 years ago

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Current Quantity	20
Description/Capabilities	A Noise Flash Diversionary Devices (NFDD) is a device that creates a bright flash and loud sound to temporarily divert the attention of subjects in the immediate area. NFDD are used to distract and temporarily incapacitate dangerous suspects by overwhelming their senses of vision and hearing. The distraction allows officers to seize a moment of opportunity to take control of high-risk situations.
Purpose	To produce atmospheric over-pressure and brilliant white light and, as a result, can cause short-term (6 - 8 seconds)physiological/psychological sensory deprivation to give officers atactical advantage.
Authorized Use	Diversionary Devices shall only be used: • By SWAT officers trained in their proper use. • In hostage and barricaded subject situations. • In high-risk warrant (search/arrest) services where there may be extreme hazards to officers. • During other high-risk situations where their use would enhance officer safety. • During training exercises. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Annual cost between $0 - $1,666, depending on usage
Flashbang Grenades	
Category	12
Description	Combined Tactical Systems CTS 7290M NFDD
Initial Cost	$34 each
Year Acquired	Continuously, beginning 5 years ago
Current Quantity	11

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Description/Capabilities	A Noise Flash Diversionary Devices (NFDD) is a device that creates a bright flash and loud sound to temporarily divert the attention of subjects in the immediate area. NFDD are used to distract and temporarily incapacitate dangerous suspects by overwhelming their senses of vision and hearing. The distraction allows officers to seize a moment of opportunity to take control of high-risk situations
Purpose	To produce atmospheric over-pressure and brilliant white light and, as a result, can cause short-term (6 - 8 seconds) physiological/psychological sensory deprivation to give officers a tactical advantage.
Authorized Use	Diversionary Devices shall only be used: • By SWAT officers trained in their proper use. • In hostage and barricaded subject situations. • In high-risk warrant (search/arrest) services where there may be extreme hazards to officers. • During other high-risk situations where their use would enhance officer safety. • During training exercises. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Annual cost between $0 - $376, depending on usage
Flashbang Grenades	
Category	12
Description	Combined Tactical Systems CTS 7290-9 NFDD
Initial Cost	$55 each
Year Acquired	Continuously, beginning 5 years ago
Current Quantity	4

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Description/Capabilities	A Noise Flash Diversionary Devices (NFDD) is a device that creates a bright flash and loud sound to temporarily divert the attention of subjects in the immediate area. NFDD are used to distract and temporarily incapacitate dangerous suspects by overwhelming their senses of vision and hearing. The distraction allows officers to seize a moment of opportunity to take control of high-risk situations
Purpose	To produce atmospheric over-pressure and brilliant white light and, as a result, can cause short-term (6 - 8 seconds) physiological/psychological sensory deprivation to give officers a tactical advantage.
Authorized Use	Diversionary Devices shall only be used: • By SWAT officers trained in their proper use. • In hostage and barricaded subject situations. • In high-risk warrant (search/arrest) services where there may be extreme hazards to officers. • During other high-risk situations where their use would enhance officer safety. • During training exercises. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Annual cost between $0 - $276, depending on usage
Flashbang Grenades	
Category	12
Description	Liberty Dynamic NFDD
Initial Cost	$175 each
Year Acquired	Upon City Council approval - 2024
Current Quantity	1

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Description/Capabilities	A Noise Flash Diversionary Devices (NFDD) is a device that creates a bright flash and loud sound to temporarily divert the attention of subjects in the immediate area. NFDD are used to distract and temporarily incapacitate dangerous suspects by overwhelming their senses of vision and hearing. The distraction allows officers to seize a moment of opportunity to take control of high-risk situations
Purpose	To produce atmospheric over-pressure and brilliant white light and, as a result, can cause short-term (6 - 8 seconds) physiological/psychological sensory deprivation to give officers a tactical advantage.
Authorized Use	Diversionary Devices shall only be used: • By SWAT officers trained in their proper use. • In hostage and barricaded subject situations. • In high-risk warrant (search/arrest) services where there may be extreme hazards to officers. • During other high-risk situations where their use would enhance officer safety. • During training exercises. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Annual cost between $0 - $300, depending on usage
Tear Gas	
Category	12
Description	Combined Tactical Systems CTS 5230 CS Canister Grenade
Initial Cost	$51 each
Year Acquired	Continuously, beginning 5+ years ago
Current Quantity	50

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Description/Capabilities	Large diameter burning canister that discharges a high volume of smoke and chemical agent through multiple emission ports. Specifically for outdoor use. Can be hand thrown or launched. Discharge duration can reach up to 40 seconds. Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2- Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $1,752 annually, depending on usage
Tear Gas	
Category	12

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Description	Combined Tactical Systems CTS 5230B CS Baffled Canister Grenade
Initial Cost	$51 each
Year Acquired	Continuously, beginning 5+ years ago
Current Quantity	17
Description/Capabilities	Pyrotechnic grenade designed for indoor use delivering a maximum amount of irritant smoke throughout multiple rooms with minimal risk of fire. Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years

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Fiscal Impact	Between $0 and $1,752 annually, depending on usage
Tear Gas	
Category	12
Description	Combined Tactical Systems CTS 6340 OC Vapor Grenade
Initial Cost	$26 each
Year Acquired	Continuously, beginning 5+ years ago
Current Quantity	9
Description/Capabilities	This grenade delivers an invisible OC vapor and renders an intense respiratory effect to a non-compliant subject. Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2- Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.

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Expected Lifespan	5 years
Fiscal Impact	Between $0 and $263 annually, depending on usage
Tear Gas	
Category	12
Description	Defense Technology MK9 Stream OC Aerosol
Initial Cost	$44 each
Year Acquired	Continuously, beginning 15+ years ago
Current Quantity	3
Description/Capabilities	The MK-9 features an easy to use trigger handle, is intended for use in crowd management and will deliver 14 short bursts of OC at an effective range of 18-20 ft. This 1.3% MC OC aerosol product utilizes a stream delivery method providing a target-specific, strong concentrated stream for greater standoff. Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2- Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.

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Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $132 annually, depending on usage
Tear Gas	
Category	12
Description	Combined Tactical Systems CTS 4330 – CS Liquid 40mm projectile
Initial Cost	$23 each
Year Acquired	Continuously, beginning 5+ years ago
Current Quantity	18
Description/Capabilities	Liquid CS filled 40mm projectile penetrates intermediate barriers and delivers irritant agents into an adjacent room. Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2- Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).

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Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $453 annually, depending on usage.
Tear Gas	
Category	12
Description	Defense Technology 6320 – Direct Impact 40mm Crushable Foam Round.
Initial Cost	$31 each
Year Acquired	Continuously, beginning 10+ years ago
Current Quantity	12

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Description/Capabilities	The 40mm Direct Impact munition is a point-of-aim, point-of-impact direct-fire round. An excellent solution whether you need to incapacitate a single subject or control a crowd. When loaded with OC powder, the Direct Impact combines blunt trauma with the effects of an irritant powder, maximizing the potential for incapacitation. Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $266 annually, depending on usage.
Tear Gas	
Category	12

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Description	CTS 4557 – Direct Impact 40mm Crushable Foam Round
Initial Cost	$31 each
Year Acquired	Upon City Council approval - 2024
Current Quantity	12
Description/Capabilities	The 40mm Direct Impact munition is a point-of-aim, point-of-impact direct-fire round. An excellent solution whether you need to incapacitate a single subject or control a crowd. When loaded with OC powder, the Direct Impact combines blunt trauma with the effects of an irritant powder, maximizing the potential for incapacitation. Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years

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Fiscal Impact	Between $0 and $266 annually, depending on usage.
Tear Gas	
Category	12
Description	CTS 4340 – 40MM Ferret OC Barricade Penetrating Projectile, Liquid
Initial Cost	$30 each
Year Acquired	Upon City Council approval - 2024
Current Quantity	8
Description/Capabilities	The Ferret 40mm Round is non-burning and suitable for indoor use. Used primarily by tactical teams, it is designed to penetrate barriers, such as windows, hollow core doors, wallboard and thin plywood. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers a small chemical payload inside of a structure or vehicle. In a tactical deployment situation, the 40mm Ferret is primarily used to dislodge barricaded subjects from confined areas. Its purpose is to minimize the risks to all parties through pain compliance, temporary discomfort and/or incapacitation of potentially violent or dangerous subjects. Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Newport Beach Police Department as a non- lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2- Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).

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Military Equipment Use Policy

Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $113 annually, depending on usage
Tear Gas	
Category	12
Description	Defense Technology 1290 – 40MM Ferret OC Barricade Penetrating Projectile, Powder
Initial Cost	$15 each
Year Acquired	Continuously, beginning 10+ years ago
Current Quantity	3

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Description/Capabilities	The Ferret 40 mm Barricade Penetrating Round is filled with an OC powder chemical agent. It is a frangible projectile that is spin stabilized utilizing barrel rifling. It is non-burning and designed to penetrate barriers. Primarily used to dislodge barricaded subjects, it can also be used for area denial. Primarily used by tactical teams, it is designed to penetrate barriers, such as windows, hollow core doors, wallboard and thin plywood. Upon impact the nose ruptures and instantaneously delivers the agent payload inside a structure or vehicle. Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $44 annually, depending on usage.

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PepperBall Launcher	
Category	12
Description	PepperBall FTC pepperball launcher
Initial Cost	$412 each
Year Acquired	2021
Current Quantity	8
Description/Capabilities	The FTC pepperball launcher is a system that uses high pressure air to deliver PAVA powder projectiles (similar to a paint ball delivery system). System capable of launching projectiles at a subject up to 60 feet away. System capable of area saturation up to 160 feet away. Non-lethal option to offer law enforcement officers to deliver chemical agents and kinetic energy impacts to subjects in a potentially violent encounter. De-escalation tool used to avoid further injuries or lethal options on a subject.
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only those officers who have been trained in the use of pepperball launchers are authorized to use the pepperball launchers. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force.
Expected Lifespan	10 years
Fiscal Impact	Between $0 and $1,500 annually, depending on usage
PepperBall Launcher Projectile	
Category	12
Description	PepperBall LIVE X projectile
Initial Cost	$237 per 90 rounds

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Year Acquired	2021
Current Quantity	500
Description/Capabilities	The basic PepperBall projectile contains 0.5% pepper powder, and is designed for direct impact and area saturation. Discharged from a FTC pepperball launcher, the projectile has a velocity of 280-350 FPS. The projectile has a direct impact of 60 feet and an area of saturation of 150+ feet. The projectile contains 0.5% PAVA Powder.
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only those officers who have been trained in the use of pepperball launchers are authorized to use the pepperball launchers. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force
Expected Lifespan	1 year
Fiscal Impact	Between $0 and $1,318 annually, depending on usage.
Projectile Launch Platforms	
Category	14
Description	Defense Technology 40LMTS Tactical 40mm Single Launcher
Initial Cost	$856 each
Year Acquired	Beginning 15+ years ago.
Current Quantity	38

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Description/Capabilities	The 40LMTS is a tactical single shot launcher that features an expandable ROGERS Super Stoc and an adjustable Integrated Front Grip (IFG) with light rail. The ambidextrous Lateral Sling Mount (LSM) and QD mounting systems allow both a single and two point sling attachment. The 40LMTS will fire standard 40mm less lethal ammunition, up to 4.8 inches in cartridge length. The Picatinny Rail Mounting System will accept a wide array of enhanced optics/sighting systems. The 40mm launcher is not a firearm, but a less-lethal system that uses smokeless powder to deliver 40mm projectiles from a safe distance. The less-lethal launcher is capable of launching 40mm munitions at a subject up to 25 yards away. This less-lethal launcher is a single launcher, which allows the Officer to assess after every spent munition. Less-lethal launchers do not have an expiration date and will need to be serviced or replaced when the launcher fails or breaks.
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable.
Authorized Use	Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force.
Expected Lifespan	25 years
Fiscal Impact	Between $0 and $1,000 annually, depending on usage.
Projectile Launch Platforms	
Category	14
Description	Penn Arms PG5 40 mm Multi Launcher
Initial Cost	$3,336 each

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Year Acquired	10+ years ago
Current Quantity	2
Description/Capabilities	The 40mm launcher is a less-lethal system that uses smokeless powder to deliver 40MM projectiles from a safe distance. This piece of equipment features a six-shot, revolving cylinder pump mechanism capable of firing multiple rounds before reloading is necessary. The less-lethal launchers do not have an expiration date and will need to be serviced or replaced when the launcher fails or breaks.
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable.
Authorized Use	Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force.
Expected Lifespan	No expiration
Fiscal Impact	Between $0 and $8,550 annually, depending on usage
Projectile Launche	
Category	14
Description	Defense Technology eXact iMpact 40MM Standard Range Sponge Round
Initial Cost	$34 per round
Year Acquired	Continuously, beginning15+ years ago
Current Quantity	200

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Description/Capabilities	The eXact iMpact 40 mm Sponge Round is a point-of-aim, point-of- impact direct-fire round. This lightweight, high-speed projectile consisting of a plastic body and sponge nose that is spin stabilized via the incorporated rifling collar and the 40 mm launcher's rifled barrel. The round utilizes smokeless powder as the propellant, and, therefore, have velocities that are extremely consistent. Used for crowd control, patrol, and tactical applications. The munition is used as a less-lethal device designed to de-escalate a potentially violent encounter.
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable.
Authorized Use	Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $6,800 annually, depending on usage
Projectile Launcher Associated Munitions	
Category	14
Description	Defense Technology 6326 – Direct Impact 40mm Marking Crushable Foam Round
Initial Cost	$31 each
Year Acquired	Continuously, beginning 10+ years ago
Current Quantity	4

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Military Equipment Use Policy

Description/Capabilities	The 40mm Direct Impact munition is a point-of-aim, point-of-impact direct-fire round. An excellent solution whether you need to incapacitate a single subject or control a crowd. When loaded with a green marking agent, the Direct Impact can be used to indicate the aggressor in a crowd or riot situation to the team on the ground.
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable and to clearly indicate individuals committing or instigating unlawful activities.
Authorized Use	Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $263 annually, depending on usage

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Chapter 8 - Support Services

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Communications

802.1 PURPOSE AND SCOPE

This policy establishes guidelines for the basic functions of Dispatch. It addresses the immediate information needs of the Department in the course of its normal daily activities and during emergencies.

802.2 POLICY

It is the policy of the Newport Beach Police Department to provide 24-hour telephone service to the public for information and for routine or emergency assistance. The Department provides two-way radio capability providing continuous communication between Dispatch and department members in the field.

802.3 DISPATCH SECURITY

The communications function is vital and central to all emergency service operations. The safety and security of Dispatch, its members and its equipment must be a high priority. Special security procedures should be established in a separate operations manual for Dispatch.

Access to Dispatch shall be limited to Dispatch members, the Watch Commander, command staff and department members with a specific business-related purpose.

802.4 RADIO UNIT DESIGNATIONS

UNIT IDENTIFICATION Each radio unit in the field will be identified by a call sign designation. This call sign is divided into components which identify the unit by: Agency, rank, watch, division, or unit assignment.

COMPONENT DESIGNATIONS The call sign designation for each field unit is subdivided as follows:

FIRST AND SECOND DIGIT. The first two digits are always "43" (This is the Orange County Communications assigned station designator for this Department).

CALL SIGN. Indicates the assigned watch, division, or unit:

Charlie Units - Command Staff

Lincoln Units- Lieutenants

Sam Units- Sergeants

A-Series- Alpha Watch Patrol Division.

B-Series - Bravo Watch Patrol Division.

D-Series - Delta Watch Patrol Division.

E-Series - Echo Watch Patrol Division

500 Series - Detective Division.

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600 Series - Support Services Division.

700 Series - Traffic Division.

000 Series- Community Relations.

RADIO CALL NUMBERS - BY FUNCTION

OFFICE OF THE CHIEF OF POLICE

43-Charlie-1 Chief of Police

43-Charlie-2 to Charlie-4 Command Staff

43-Lincoln Executive Officer

43-016 Public Information Officer

43-017 Community Relations Officer

43-018 Emergency Services Coordinator

43-V1 to V25 Volunteers

PATROL /TRAFFIC DIVISION

43-Charlie-2 Patrol Division Deputy Chief

43-Lincoln-1 to Lincoln-8 Lieutenants

43-Sam-1 to Sam-25 Sergeants

43-Alpha/Bravo/Delta/Echo-11 to 16 Patrol Area 1

43-Alpha/Bravo/Delta/Echo-21 to 26 Patrol Area 2

43-Alpha/Bravo/Delta/Echo-33 to 38 Patrol Area 3

43-Alpha/Bravo/Delta/Echo-44 to 49 Patrol Area 4

43-Alpha/Bravo/Delta/Echo-01 to 04 Patrol Cover Officer

43-Tango-1 to Tango-10 Transportation Units

HB-1 Helicopter

43-702M to 709M Motor Officers

43-722 to 723 Traffic Investigators

43-BK-1 to BK-4 Bike Patrol Officers

43-A83 Homeless Liaison Officer

43-K1 to K2 Canine Officers

43-780 to 784 Animal Control Officers

43-770 to 779 Parking Control Officers

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DETECTIVE DIVISION

43-511 to 513 Crime Against Persons Section

43-545 to 555 Property Crimes Section

43-521-522 Special Victims Unit Section

43-SR-1 to SR-6 School Resource Officer

43-524 School Resource Specialist

43-582 Court Liaison Officer

43-515 to 519 Crime Scene Investigators

43-532 to 538 Special Investigations Unit Section

43-561 and 535 Regional Taskforce

43-Y-1 to Y-4 Crime Suppression Unit

43-581 Crime Analyst

802.5 RESPONSIBILITIES

802.5.1 COMMUNICATIONS MANAGER

The Chief of Police shall appoint and delegate certain responsibilities to a Communications Manager. The Communications Manager reports directly to the Lieutenant in the Support Services Division or the authorized designee.

The responsibilities of the Communications Manager include, but are not limited to:

(a) Oversee the efficient and effective operation of Dispatch in coordination with other supervisors.

(b) Oversee the efficient and effective operation of the Alarm Division

(c) Provide direction to others, act upon requests, forward to proper channels, receive projects and task to complete or delegate to subordinates.

(d) Approval of time records for both dispatcher and alarm staff time records.

(e) Monitor, evaluate and document work performance of assigned personnel; mentor, motivate and counsel employees on work deficiencies and performance improvement; recommend and coordinate employee recognition and discipline.

(f) Coordinate training within dispatch.

(g) Monitor new trainees and complete end of probation evaluations.

(h) Ensure the radio and telephone recording system is operational

    (a) Recordings shall be maintained in accordance with established records retention schedule and as required by law.

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(b) Processing requests for Court Discovery, Public Records Act and Preservation of Evidence for the Professional Standards Unit.

(c) Security of audio recordings and retentions of limited access, authorized reviewers and preservation of recordings past normal retention standards.

(d) Recording all telephone and radio communications and playback issues.

(i) Monitor progress of problems pertaining to operations of our CAD, P25 radio system and VESTA phone system.

(j) Maintain radio equipment inventory for Dispatch consoles and mobile equipment for the field.

(k) Approve updates for our Dispatch procedures manual. Ensuring dispatcher compliance with established policies and procedures.

(l) Handle internal and external inquiries regarding services provided and accept personnel complaints in accordance with Department policy.

(m) Maintain current contact list of City personnel to be notified in the event of after hour emergencies.

(n) Management of functions and budget associated with assigned unit.

(o) Serve as liaison with other City departments, divisions and outside agencies. Manage and deliver timely notifications from meetings.

802.5.2 ADDITIONAL PROCEDURES

The Communications Manager should establish procedures for:

(a) Recording all telephone and radio communications and playback issues.

(b) Storage and retention of recordings.

(c) Security of audio recordings (e.g., passwords, limited access, authorized reviewers, preservation of recordings past normal retention standards).

(d) Availability of current information for dispatchers (e.g., Watch Commander contact, rosters, member tracking methods, member contact, maps, emergency providers, tactical dispatch plans).

(e) Recruitment, selection and termination processes.

(f) Coordination across departments.

(g) Procurement of essential equipment (e.g., Pac-sets, batteries, antennas, microphones, radios.)).

(h) Protection of radio transmission lines, antennas and power sources for Dispatch.

(i) Radio interoperability issues.

802.5.3 COMMUNICATIONS SUPERVISOR

The Communications Manager shall appoint and delegate certain responsibilities to each of the Communications Supervisors. The Communication Supervisor reports directly to the

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Communications Manager or authorized designee. This position is a working dispatcher with additional supervisory roles away from the console.

The Responsibilities of the Communications Supervisor include, but are not limited to:

(a) Supervision and direction of subordinates on their assigned shift.

(b) Resolve problems that arise during a given shift.

(c) Maintain harmony in the work unit.

(d) Suggest operational improvements for the dispatch center.

(e) Complete monthly schedules, days off requests and holiday schedule.

(f) Make sure they have proper coverage on each of their assigned shifts.

(g) Complete yearly evaluations on assigned staff.

(h) Monitor all new trainee progress in the training program.

(i) Process requests for court discovery.

(j) Oversee the maintenance updates of our Dispatch procedures manual and training manual.

(k) Ensure dispatcher compliance with established policies and procedures.

(l) Document radio inoperability issues.

(m) Phone troubleshoot when Manager is not available.

(n) Serve as Communications Manager whenever designated by the Communications Manager.

802.5.4 DISPATCHERS

Dispatchers report to the Communications Supervisor. The responsibilities of the dispatcher include, but are not limited to:

(a) Receiving and handling all incoming and transmitted communications, including:

  (a) Emergency 9-1-1 lines.

  (b) Business telephone lines.

  (c) Telecommunications Device for the Deaf (TDD)/Text Telephone (TTY) equipment and Text to 911

  (d) Radio communications with department members in the field and support resources (e.g., fire department, emergency medical services (EMS), allied agency law enforcement units).

  (e) Other electronic sources of information (e.g., text messages, digital photographs, video).

(b) Documenting the field activities of department members and support resources (e.g., fire department, EMS, allied agency law enforcement units).

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(c) Inquiry and entry of information through Dispatch, department and other law enforcement database systems (CLETS, DMV, NCIC).

(d) Monitoring department video surveillance systems.

(e) Maintaining the current status of members in the field, their locations and the nature of calls for service.

(f) Notifying the Watch Commander or field supervisor of emergency activity, including, but not limited to:

(a) Vehicle pursuits.

(b) Foot pursuits.

(c) Assignment of emergency response.

802.6 CALL HANDLING

This Department provides members of the public with access to the 9-1-1 system for a single emergency telephone number.

When a call for services is received, the dispatcher will reasonably and quickly attempt to determine whether the call is an emergency or non-emergency, and shall quickly ascertain the call type, location and priority by asking four key questions:

- Where?
- What?
- When?
- Who?

If the dispatcher determines that the caller has a hearing and/or speech impairment or disability, he/she shall immediately initiate a connection with the individual via available TDD/TTY equipment, Text to 911 or Telephone Relay Service (TRS), as mandated by the Americans with Disabilities Act (ADA).

If the dispatcher determines that the caller is a limited English proficiency (LEP) individual, the dispatcher should quickly determine whether sufficient information can be obtained to initiate an appropriate response. If language assistance is still needed, the language is known and a language-appropriate authorized interpreter is available in Dispatch, the dispatcher should immediately connect the LEP caller to the authorized interpreter.

If no authorized interpreter is available or the dispatcher is unable to identify the caller’s language, the dispatcher will contact the contracted telephonic interpretation service and establish a three-party call connecting the dispatcher, the LEP individual and the interpreter.

Dispatchers should be courteous, patient and respectful when dealing with the public.

802.6.1 EMERGENCY CALLS

A call is considered an emergency when there is an immediate or potential threat to life or serious property damage, and the timely arrival of public safety assistance is of the utmost importance. A

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person reporting an emergency should not be placed on hold until the dispatcher has obtained all necessary information to ensure the safety of the responding department members and affected individuals.

Emergency calls should be dispatched immediately. The Watch Commander shall be notified of pending emergency calls for service when department members are unavailable for dispatch.

802.6.2 NON-EMERGENCY CALLS

A call is considered a non-emergency call when there is no immediate or potential threat to life or property. A person reporting a non-emergency may be placed on hold, if necessary, to allow the dispatcher to handle a higher priority or emergency call.

The reporting person should be advised if there will be a delay in the dispatcher returning to the telephone line or when there will be a delay in the response for service.

802.7 RADIO COMMUNICATIONS

The police radio system is for official use only, to be used by dispatchers to communicate with department members in the field. All transmissions shall be professional and made in a calm, businesslike manner, using proper language and correct procedures. Such transmissions shall include, but are not limited to:

(a) Members acknowledging the dispatcher with their radio identification call signs.

(b) Dispatchers acknowledging and responding promptly to all radio transmissions.

(c) Members keeping the dispatcher advised of their status and location.

(d) Member and dispatcher acknowledgements shall be concise and without further comment unless additional information is needed.

The Communications Manager shall be notified of radio procedure violations or other causes for complaint. All complaints and violations will be investigated and reported to the complainant’s supervisor and processed through the chain of command.

802.7.1 FEDERAL COMMUNICATIONS COMMISSION COMPLIANCE

Newport Beach Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and requirements. Standard operating procedures are coordinated through a countywide system P25. This is an ongoing partnership with Orange County first responders.

802.7.2 RADIO IDENTIFICATION

Radio call signs are assigned to department members based on factors such as duty assignment, uniformed patrol assignment and/or member identification number. Dispatchers shall identify themselves on the radio with the appropriate station name or number, and identify the department member by his/her call sign. Members should use their call signs when initiating communication with the dispatcher. The use of the call sign allows for a brief pause so that the dispatcher can acknowledge the appropriate department member. Members initiating communication with other

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law enforcement or support agencies shall use their entire radio call sign, which includes the department station name or number.

802.8 DOCUMENTATION

It shall be the responsibility of Dispatch to document all relevant information on calls for service or self-initiated activity. Dispatchers shall attempt to elicit, document and relay as much information as possible to enhance the safety of the member and assist in anticipating conditions that may be encountered at the scene. Desirable information would include, at a minimum:

- Incident number.
- Date and time of request.
- Name and address of the reporting person, if possible.
- Type of incident reported.
- Involvement of weapons, drugs and/or alcohol.
- Location of incident reported.
- Identification of members assigned as primary and backup.
- Time of dispatch.
- Time of the responding member’s arrival.
- Time of member’s return to service.
- Disposition or status of reported incident.

802.9 CONFIDENTIALITY

Information that becomes available through Dispatch may be confidential or sensitive in nature. All members of Dispatch shall treat information that becomes known to them as confidential and release that information in accordance with the Protected Information Policy.

Automated data, such as Department of Motor Vehicle records, warrants, criminal history information, records of internal police files or medical information, shall only be made available to authorized law enforcement personnel. Prior to transmitting confidential information via the radio, an admonishment shall be made that confidential information is about to be broadcast.

802.10 TRAINING AND CERTIFICATION

Dispatchers shall receive training consistent with minimum standards established by POST (Penal Code § 13510).

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Property Office

804.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove and/or destroy property.

804.1.1 PROPERTY ROOM AND OFFICE - AUTHORIZED ACCESS

Access to the Property Room and Office shall be restricted to the Property Officer, his/her immediate supervisor, and the Support Services Division Commander. Whenever access to the Property Room or Office is necessary and the authorized personnel are unavailable, the Patrol Division Watch Commander shall be authorized. The Property Room access key for the Watch Commander shall be maintained in the secure key box in the Watch Commander's office. All entries by the Watch Commander into the Property Office or Property Room shall be recorded on the Property Room Access Log maintained in the Property Room Office. The following information shall be recorded on the log:

- Name and ID Number
- Date and Time of Entry
- Reason Access Needed
- Date and Time of Exit
- Watch Commander Present/ Secondary Employee

804.1.2 DEFINITIONS

Definitions related to this policy include:

Property - All articles placed in secure storage within the Property Office, including the following:

- Evidence - Items taken or recovered in the course of an investigation that may be used in the prosecution of a case, including photographs and latent fingerprints.
- Found property - Items found by members of the Department or the public that have no apparent evidentiary value and where the owner cannot be readily identified or contacted.
- Safekeeping - Items received by the Department for safekeeping, such as a firearm, the personal property of an arrestee that has been not taken as evidence, and items taken for safekeeping under authority of law.

804.1.3 CSI LABORATORY - AUTHORIZED ACCESS

Access to the CSI Laboratory shall be restricted to Crime Scene Investigators, their immediate supervisor, and the Detective Division Commander. Whenever access to the CSI Laboratory is necessary and the authorized personnel are unavailable, the Patrol Division Watch Commander shall be authorized. The CSI Laboratory access key for the Watch Commander shall be maintained

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in the secure key box in the Watch Commander's office. All entries by the Watch Commander into the CSI Laboratory shall be recorded on the CSI Lab Entry Log maintained in the CSI Laboratory.

The following information shall be recorded on the log:

- Name and ID Number
- Date and Time of Entry
- Reason Access Needed
- Date and Time of Exit
- Watch Commander Present

At the end of each month, the CSI Lab Entry Log shall be scanned to the CSI server folder by the CSI Senior.

804.2 POLICY

It is the policy of the Newport Beach Police Department to process and store all property in a manner that will protect it from loss, damage, or contamination, while maintaining documentation that tracks the chain of custody, the location of property, and its disposition.

804.3 PROPERTY HANDLING

Any member who first comes into possession of any property shall retain such property in their possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Whenever property is taken or received (e.g., relinquished firearms) from an individual, a property receipt form will be completed. The receipt shall describe the property and contain a notice on how to retrieve the property, as applicable, from the Department. A copy of the property receipt form shall be given to the individual from whom the property was taken or received.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

804.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the member going off-duty unless otherwise approved by a supervisor. Members booking property shall observe the following guidelines:

(a) Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.

(b) Mark each item of evidence with the booking member's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.

(c) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.

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(d) Place the case number in the upper right-hand corner of the bag.

(e) The original property form shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if property is stored somewhere other than a property locker.

(f) When the property is too large to be placed in a locker, the item may be retained in the supply room. Submit the completed property record into a numbered locker indicating the location of the property.

804.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately using a separate property record number. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall place them in the designated locker. The Property Report will be submitted with the case report.

804.3.3 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Watch Commander. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the police facility. Fireworks that are unmodified and possess the State Fire Marshal Seal of Registration (e.g. dangerous, safe and sane, or snap cap/snappers) and road flares or similar signaling devices may be booked into the temporary Fireworks Storage Magazine (FSM) at the Fire Department for proper disposal and/or storage in the event that they are not immediately collected by the bomb squad. The officer shall notify the Watch Commander to gain access to the FSM.

804.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

(a) Bodily fluids such as blood or semen stains shall be air dried prior to booking.

(b) License plates found not to be stolen or connected with a known crime should be released directly to the Property Officer, or placed in the designed container for return to the Department of Motor Vehicles. No formal property booking process is required.

(c) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property may be released directly to the Property Officer, or placed in the bicycle storage area until a Property Officer can log the property.

(d) All cash shall be counted in the presence of a supervisor and the Money Envelope (NBPD Form 10.1.2) initialed by the booking officer and the supervisor.

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1. List the DR number, the amount of currency, the item number, and the denominations of the bills/coins on the exterior of the money envelope and on the Property Report Receipt (NBPD Form 10.12).
2. Indicate on the exterior of the money envelope the reason the money is being booked and whether or not the actual currency will be needed in court as evidence (e.g., counterfeit bills, bait money, marked bills, etc.).
3. All amounts shall be verified by the booking employee and an on-duty supervisor, who shall print and sign their name on the exterior of the money envelope.
4. Close and securely seal the envelope prior to booking. A Property/Evidence Tag is not required.
5. Make a photo copy of the money envelope and attach it to the property report.
6. Place the sealed money envelope into the safe located in the Property/Evidence receiving locker room.
7. Counterfeit bills should be booked as evidence, not currency. A money envelope is not required.

City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

804.3.5 RELINQUISHED FIREARMS

Individuals who relinquish firearms who are subject to the relinquishment provisions of Penal Code § 29810(a)(1) shall be issued a receipt that describes the firearm, the serial number, or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold, or otherwise transferred, unless (Penal Code § 29810):

(a) A certificate is issued by a judge of a court of record or the [District/CountyAttorney] stating the firearms shall be retained; or

(b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or

(c) The Automated Firearms System indicates that the firearm was reported lost or stolen.

1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Department has complied with the requirements of Penal Code § 33850 et seq.

The Property Officer shall ensure the Records Manager is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (see the Records Section Policy).

804.4 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

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(a) Narcotics and dangerous drugs

(b) Firearms (ensure they are unloaded and booked separately from ammunition)

(c) Property with more than one known owner

(d) Paraphernalia as described in Health and Safety Code § 11364

(e) Fireworks

(f) Contraband

804.4.1 PACKAGING CONTAINER

Members shall package all property, except narcotics and dangerous drugs, in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

804.4.2 PACKAGING/NARCOTICS

The officer seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged, and booked into property. Due to the risk of unintended exposure and injury, officers shall not conduct any presumptive tests on suspected narcotics or dangerous drugs. A Division Commander may authorize an exception to this rule when circumstances require immediate testing of a substance. In such exceptions, all reasonable precautions should be taken including, but not limited to, donning Personal Protective Equipment, conducting the test in a controlled environment, ensuring emergency medical treatment is available and proper disposal of all potentially hazardous items placed in the designated narcotics locker.

Narcotics and dangerous drugs shall be packaged in a 9" x 12" manila envelope. The booking officer shall seal the envelope with clear packaging tape, write their initials,ID number, and date across the top seam of the tape, and the bottom seam of the tape (Note: This packaging procedure shall not apply to marijuana). Narcotics and dangerous drugs shall not be packaged with other property

A completed voucher shall be attached to the outside of the container. The chain of evidence shall be recorded electronically by the Property Officer.

804.5 RECORDING OF PROPERTY

The Property Officer receiving custody of evidence or property shall electronically record their name, the date and time the property was received and where the property will be stored in the property management system.

A property number will be issued electronically each item or group of items.

Any changes in the location of property held by the Newport Beach Police Department shall be noted in the property management system.

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804.6 PROPERTY CONTROL

Each time the Property Officer receives property or releases property to another person, he/she shall enter this information electronically. Officers desiring property for court shall contact the Property Officer at least one day prior to the court day.

804.6.1 RESPONSIBILITY OF OTHER PERSONNEL

Every time property is released or received, an appropriate entry shall be made electronically to maintain the chain of custody. No evidence is to be released without first receiving written authorization from a supervisor or detective.

Request for analysis for items other than narcotics or drugs shall be submitting a works request through the Orange County Crime Lab. This request may be filled out any time after booking of the property or evidence.

Whenever evidence is transported to and retained by the court, the transporting employee shall:

- Request the Court Clerk sign a Property Receipt [10.3]
- Return the Property Receipt [10.3] to the Property Officer

804.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting member will check the evidence out of property, indicating the date and time on the property control card and the request for laboratory analysis.

The Property Officer releasing the evidence must complete the required information on the property control card and the evidence. The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the officer will record the delivery time on both copies and indicate the locker in which the item was placed or the member to whom it was delivered. The original copy of the lab form will remain with the evidence and the copy will be returned to the Records Section for filing with the case.

804.6.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property control card, stating the date, time, and to whom released.

The Property Officer shall obtain the signature of the person to whom property is released and the reason for release. Any member receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property control card, indicating date, time, and the person who returned the property.

804.6.4 AUTHORITY TO RELEASE PROPERTY

The Detective Division shall authorize the disposition or release of all evidence coming into the care and custody of the Department.

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804.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of evidence shall be made by Detective email and/or disposition report listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented electronically and/or on a Property Release Form. The Property Officer shall update the property management system when property is being released from a Property Release Form.

With the exception of firearms and other property specifically regulated by statute, found property shall be held for 90 days and property held for safekeeping shall be held for 60 days and then disposed of in a manner prescribed by law. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days for Found Property or 60 days for Safekeeping after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in the property management system.

A Property Officer shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the Property Release Form, along with their address, phone number, identification number and date of release. The Property Officer will then ensure the release of information is updated in the property management system and then forward the documents to Records to be document imaged and filed with the original case.

Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The Property Officer should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and if so, the firearm should not be released to the person while the order is in effect.

The Department is not required to retain any firearm, magazine, or ammunition longer than 180 days after notice has been provided to the owner that such items are available for return. At the expiration of such period, the firearm, magazine, or ammunition may be processed for disposal in accordance with applicable law (Penal Code § 33875).

Note: Property shall not be released to any finder who is a Department employee (Refer to 1.20.040 NBMC).

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804.6.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Department may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

804.6.7 CONTROL OF NARCOTICS AND DANGEROUS DRUGS

In order to insure the integrity of the evidence system, controlled substances booked into evidence shall be subject to testing at designated times.

All controlled substances, with the exception of marijuana, shall be transported to an appropriate analysis facility for the purposes of determining what, if any, controlled substance is present. Following analysis, the controlled substance shall be returned to NBPD and placed into evidence pending adjudication of any pending criminal proceeding.

All controlled substances booked into evidence, with the exception of marijuana, with a weight of one ounce or more shall be tested prior to destruction.

Small amounts of controlled substances booked into evidence shall be subject to random testing on a monthly basis or at any time so designated by the Chief of Police or the Support Services Division Commander.

As part of this screening process, the weights of controlled substances booked into evidence shall be confirmed on a random basis. The supervisor responsible for conducting the tests shall insure that an investigation is initiated if any significant discrepancy is detected.

804.6.8 RELEASE OF PROPERTY TO AGENT OF OWNER

(a) When property owned by a business is to be released to an agent of the business, the agent shall present written authorization on company letterhead, signed by a company official.

(b) An arrestee's personal property may be released to a person other than the arrestee provided the named representative is authorized to claim the property on behalf of its owner with written authorization. The person receiving the property shall sign the property release and waiver form.

(c) An agent seeking to obtain property for an owner shall present notarized authorization signed by the owner.

804.6.9 RELEASE OF PROPERTY BY LEGAL PROCESS

Persons other than owners or agents of owners shall obtain the following prior to release of the property:

- Court order; or
- Written authorization from the Newport Beach City Attorney's Office

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804.6.10 RELEASE OF FIREARMS IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm or ammunition, the Property Officer shall return the weapon or ammunition to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met, unless the firearm or ammunition is determined to be stolen, evidence in a criminal investigation, another successive order has been issued against the individual, or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 29825.5; Penal Code § 33855).

804.6.11 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order, verification that the person is not otherwise legally prohibited from possessing a firearm, and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18108; Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, they are entitled to sell or transfer title to a licensed dealer, provided that the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition (Penal Code § 18120).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the Newport Beach Police Department determines the person to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

804.6.12 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms, other deadly weapons, or ammunition confiscated or relinquished from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

(a) If a petition for a hearing regarding the return of a firearm or a weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the firearm or weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) that conforms to the provisions of Penal Code § 33865.

(b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the firearm or weapon is not retained as evidence, the Department shall make the firearm or weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ that conforms to the provisions of Penal Code § 33865.

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(c) Unless the person contacts the Department to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed, or retained as provided in Welfare and Institutions Code § 8102.

804.6.13 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION
The Department shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met.

804.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The disposition of all property shall be appropriately documented.

The Property Officer shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

804.7.1 EXCEPTIONAL DISPOSITIONS
The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 25700; Penal Code § 26110; Penal Code § 26395; Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen, or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680)

804.7.2 UNCLAIMED MONEY
If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

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Any individual item with a value of less than $15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this department to fund official law enforcement operations. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

804.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The Property Office Supervisor shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

(a) The defendant

(b) The defendant’s attorney

(c) The appropriate prosecutor and Attorney General

(d) Any sexual assault victim

(e) The Detective Division supervisor

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9) or that has been established by the Property Office Supervisor, or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 180 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Detective Division supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor’s office.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the Detective Division supervisor should be consulted and the sexual assault victim shall be notified at least 60 days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).

804.7.4 DESTRUCTION OF FIREARMS AND OTHER WEAPONS

The Property Office supervisor or the authorized designee shall develop and maintain guidelines and procedures relating to the destruction of firearms and other weapons that includes but is not limited to the following (Penal Code § 18005):

(a) Identification of firearms and other weapons that need to be destroyed

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(b) Maintenance of records of firearms and other weapons that need to be destroyed, including entry into the Automated Firearms System, as applicable, and records of the destruction and disposal of those firearms and other weapons

(c) Identification of any law enforcement agency that the Department contracts with or has an agreement with related to the storage or destruction of firearms or other weapons that outlines the responsibilities of this department and the other agency

1. If the Department contracts with a third-party for destruction of firearms or other weapons, the contract must explicitly prohibit the sale of any firearm or weapon or any part or attachment to the firearm or weapon.

The Property Office supervisor or the authorized designee should ensure guidelines and procedures relating to the destruction of firearms and other weapons are posted on the Newport Beach Police Department website (Penal Code § 18005).

804.8 INSPECTIONS, INVENTORIES, AND AUDITS

The Department requires periodic and event-specific inspections, audits, and inventories of the Property Office, with results documented and forwarded to the Chief of Police. Such inspections, audits, and inventories shall include but are not limited to:

(a) On a monthly basis, the Property Office supervisor or the authorized designee shall make an inspection of the property storage facilities and practices to ensure adherence to appropriate policies and procedures.

(b) Unannounced inspections of property storage areas shall be conducted annually as directed by the Chief of Police.

(c) An annual audit of property held by the Department shall be conducted by a Division Commander (as appointed by the Chief of Police) not routinely or directly connected with property control.

(d) Whenever a change is made in a Property Officer, Property Office supervisor, or Chief of Police or there is any indication or suspicion of a breach of the Property Office repository, an inventory of all property shall be made by an individual not associated with the Property Office or function to ensure that records are correct and all property is accounted for.

804.9 BOATS

804.9.1 BOATS IN POLICE CUSTODY

A boat taken into police custody (refer Sections 675, 676, and 677 Harbors and Navigation's Code) shall be reported on a Boat Report [3.19] and shall be classified as follows:

Stored - A stored boat is one that necessitated removal and is available for immediate release.

Impounded - An impounded boat is one that is taken into police custody for further investigation and is not available for immediate release.

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804.9.2 PROPERTY OR EVIDENCE

All valuable property or evidence on a boat removed for safekeeping shall be listed on a Boat Report [3.19] and handled as follows:

(a) All property of extraordinary value not booked as evidence shall be booked for safekeeping on a Property Report [10.1].

(b) Equipment on and securely attached to the boat may be left on the boat.

(c) Personal property may be left within secured cabins or cockpits.

(d) All personal property in open boats not booked as evidence shall be booked for safekeeping on a Property Report [10.1].

804.9.3 STORING/IMPOUNDING BOATS AND TRAILERS

An employee storing or impounding a boat shall:

- When necessary, request the assistance of the Harbor Department
- Complete a Boat Report [3.l9]
- Advise Communications of:
  (a) Whether the boat is "stored" or "impounded"
  (b) Boat's description
  (c) Location of storage/impound
  (d) Reason for storage/impound

BOAT TRAILERS

- Registered boat trailers with or without boats shall be handled the same as any other registered vehicle
- Unregistered boat trailers with or without boats shall be handled the same as any other found property.

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Records Section

806.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the Newport Beach Police Department Records Section. The policy addresses department file access and internal requests for case reports.

806.2 POLICY

It is the policy of the Newport Beach Police Department to maintain Department records securely and in accordance with federal, state and local regulations.

806.3 RESPONSIBILITIES

806.3.1 RECORDS MANAGER OR DESIGNEE

The Chief of Police shall appoint and delegate certain responsibilities to the Records Manager. The Records Manager shall be directly responsible to the Support Services Deputy Director or the authorized designee.

The responsibilities of the Records Manager include but are not limited to:

(a) Overseeing the efficient and effective operation of the Records Section.

(b) Scheduling unit personnel and maintaining Records Section time records.

(c) Supervising, training, and evaluating assigned Records Section personnel.

(d) Maintaining and updating a Records Section procedure manual.

(e) Ensuring compliance with Department established policies and procedures, as well as State and Federal requirements.

(f) Supervising the access, use, and release of documents under Records control.

(g) Establishing security and access protocols for case reports designated as sensitive, where additional restrictions to access have been implemented. Sensitive reports may include but are not limited to:

1. Homicides.
2. Cases involving department members or public officials.
3. Any case where restricted access is prudent.

806.3.2 RECORDS SECTION

The responsibilities of the Records Section include but are not limited to:

(a) Maintaining a records management system for case reports.

1. The records management system should include a process for numbering, identifying, tracking, and retrieving case reports.

(b) Entering case report information into the records management system.

1. Modification of case reports shall only be made when authorized by a supervisor.

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(c) Providing members of the Department with access to case reports when needed for investigation or court proceedings.

(d) Maintaining compliance with federal, state, and local regulations regarding reporting requirements of crime statistics. This includes reporting statistical data to the California Department of Justice (DOJ) for:

1. All officer-involved shootings and incidents involving use of force resulting in serious bodily injury (Government Code § 12525.2).
2. Suspected hate crimes (Penal Code § 13023).
3. Complaints of racial bias against officers (Penal Code § 13012; Penal Code § 13020).
4. Civilian complaints made against officers (Penal Code § 832.5; Penal Code § 13012).
5. Stop data required by Government Code § 12525.5 and 11 CCR 999.226.
    (a) The reported information must not contain personally identifiable information of the person stopped or other information exempt from disclosure pursuant to Government Code § 12525.5 (11 CCR 999.228).
6. Anti-reproductive rights crime information required by Penal Code § 13777.
7. Domestic violence-related call information required by Penal Code § 13730 (see the Domestic Violence policy).

(e) Maintaining compliance with federal, state, and local regulations regarding criminal history reports and auditing.

(f) Identifying missing case reports and notifying the responsible member's supervisor.

(g) Establishing a process for collecting and submitting data to appropriate federal data collection authorities (e.g., FBI National Use-of-Force Data Collection), as applicable, for the following types of occurrences:

1. Officer suicides
2. Officer misconduct
3. Uses of force
4. Officer deaths or assaults
5. Crime incidents
6. Deaths in custody

(h) Updating the Automated Firearms System to reflect any firearms relinquished to the Department and the subsequent disposition to the California DOJ pursuant to Penal Code § 34010 (Penal Code § 29810).

(i) Entering into the Automated Firearms System information about each firearm that has been reported stolen, lost, found, recovered, held for safekeeping, surrendered in relation to a private party firearms transaction or registration, relinquished or surrendered pursuant to a court order or a state law that requires relinquishment or

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surrender of firearms to law enforcement, or under observation, within seven calendar days of the precipitating event (Penal Code § 11108.2).

(j) Entering into the California DOJ automated property system descriptions of serialized property, or non-serialized property that has been uniquely inscribed, which has been reported stolen, lost, found, recovered, held for safekeeping, or under observation (Penal Code § 11108).

(k) Maintaining compliance with quarterly California DOJ reporting requirements regarding the department's efforts to verify an individual listed in the Armed and Prohibited Persons System (APPS) is no longer in possession of a firearm (Penal Code § 29813).

(l) Maintaining compliance with the state and California DOJ reporting requirements regarding the number of transfers of individuals to immigration authorities and offenses that allowed for the transfers (Government Code § 7284.6(c)(2)).

(m) Transmitting data to the Joint Regional Information Exchange System on any suspected multi-mission extremist crimes.

806.3.3 RECORDS SECTION PROCEDURE MANUAL
The Records Manager should establish procedures that address:

(a) Identifying by name persons in reports.

(b) Classifying reports by type of incident or crime.

(c) Tracking reports through the approval process.

(d) Assigning alpha-numerical records to all arrest records.

(e) Managing a warrant file.

806.4 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by officers of the Newport Beach Police Department and no accusatory pleading has been filed, the person arrested may petition the Department to destroy the related arrest records. Petitions should be forwarded to the Newport Beach Police Department. The Newport Beach Police Department will review the petition and respond in a manner as outlined in accordance with 851.8 P.C.

806.5 FILE ACCESS AND SECURITY

The security of files in the Records Section must be a high priority and shall be maintained as mandated by state or federal law. All case reports including but not limited to initial, supplemental, follow-up, evidence, and any other reports related to a police department case, including field interview (FI) cards, criminal history records, and publicly accessible logs, shall be maintained in a secure area within the Records Section, accessible only by authorized personnel.

The Records Section Manager will control access to reports deemed as sensitive or otherwise requiring extraordinary access restrictions.

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806.6 EMPLOYEE DATA REPORT

Each employee shall ensure that a current Employee Data Report is on file indicating the employee's correct home address and telephone number. Post Office Box numbers are not acceptable. A new Employee Data Form shall be completed in its entirety and submitted:

- On the date of employment
- On the date previously reported information has changed

RELEASE OF INFORMATION

Information contained on the Employee Data Report shall be released only under the following circumstances:

- Upon the specific authority of the involved employee; or
- Upon the direction of the Chief of Police or designee.

806.6.1 DEPARTMENT PHONE LIST

Information contained on the Department Phone List is confidential and shall be released only upon the specific authority of the involved employee or direction of the Chief of Police or designee.

806.7 ORIGINAL CASE DOCUMENTS

Original case documents shall not be removed from the Records Section.

806.8 CONFIDENTIALITY, SENSITIVE OR RESTRICTED DOCUMENTS

Records Section personnel may have access to information that is deemed to be confidential, sensitive or restrictive in nature. All access to view, release or disseminate this type of information to the public and any requesting party will be in accordance with existing local, state and federal regulations.

806.9 ARREST WITHOUT FILING OF ACCUSATORY PLEADING

The Watch Commander should ensure a process is in place for when an individual is arrested and released and no accusatory pleading is filed so that the following occurs (Penal Code § 849.5; Penal Code § 851.6):

(a) The individual is issued a certificate describing the action as a detention.

(b) All references to the arrest are reflected as only a detention.

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Restoration of Firearm Serial Numbers

808.1 PURPOSE AND SCOPE

The primary purpose for restoring firearm serial numbers is to determine the prior owners or origin of the item from which the number has been recovered. Thus, property can be returned to rightful owners or investigations can be initiated to curb illegal trade of contraband firearms. The purpose of this plan is to develop standards, methodologies, and safety protocols for the recovery of obliterated serial numbers from firearms and other objects using procedures that are accepted as industry standards in the forensic community. All personnel who are involved in the restoration of serial numbers will observe the following guidelines. This policy complies with Penal Code § 11108.9.

808.2 PROCEDURE

Any firearm coming into the possession of the Newport Beach Police Department as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

808.2.1 PRELIMINARY FIREARM EXAMINATION

(a) Always keep the muzzle pointed in a safe direction. Be sure the firearm is in an unloaded condition. This includes removal of the ammunition source (e.g., the detachable magazine, contents of the tubular magazine) as well as the chamber contents.

(b) If the firearm is corroded shut or in a condition that would preclude inspection of the chamber contents, treat the firearm as if it is loaded. Make immediate arrangements for a firearms examiner or other qualified examiner to render the firearm safe.

(c) Accurately record/document the condition of the gun when received. Note the positions of the various components such as the safeties, cylinder, magazine, slide, hammer, etc. Accurately record/document cylinder chamber and magazine contents. Package the ammunition separately.

(d) If the firearm is to be processed for fingerprints or trace evidence, process before the serial number restoration is attempted. First record/document important aspects such as halos on the revolver cylinder face or other relevant evidence that might be obscured by the fingerprinting chemicals.

808.2.2 PROPERTY BOOKING PROCEDURE

Any employee taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures. The employee booking the firearm shall indicate on the property form that serial numbers have been removed or obliterated.

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808.2.3 OFFICER RESPONSIBILITY

The Property Officer receiving a firearm when the serial numbers have been removed or obliterated shall arrange for the firearm to be transported to the crime lab for restoration and maintain the chain of evidence.

808.2.4 DOCUMENTATION

Case reports are prepared in order to document the chain of custody and the initial examination and handling of evidence from the time it is received/collected until it is released.

This report must include a record of the manner in which and/or from whom the firearm was received. This may appear on the request form or property form depending on the type of evidence.

808.2.5 FIREARM TRACE

After the serial number has been restored (or partially restored) by the criminalistics laboratory, the Property Officer will complete a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Tracing Center (NTC) Obliterated Serial Number Trace Request Form (ATF 3312.1-OBL) and forward the form to the NTC in Falling Waters, West Virginia or enter the data into the ATF eTrace system.

808.3 BULLET AND CASING IDENTIFICATION

Exemplar bullets and cartridge cases from the firearm, depending upon acceptance criteria and protocol, may be submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Integrated Ballistic Information Network (NIBIN) which uses the Integrated Ballistic Identification System (IBIS) technology to search the national database and compare with ballistic evidence recovered from other crime scenes.

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Records Maintenance and Release

810.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of Department records. Protected information is separately covered in the Protected Information Policy.

810.2 POLICY

The Newport Beach Police Department is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 7920.000 et seq.).

810.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Chief of Police shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to:

(a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department public records.

(b) Maintaining and updating the department records retention schedule including:

1. Identifying the minimum length of time the Department must keep records.
2. Identifying the department division responsible for the original record.

(c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records (Government Code § 7922.525; Government Code § 7922.530).

(d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.

(e) Establishing rules regarding the processing of subpoenas for the production of records.

(f) Ensuring a current schedule of fees for public records as allowed by law is available (Government Code § 7922.530).

(g) Determining how the department's website may be used to post public records in accordance with Government Code § 7922.545.

(h) Ensuring that all department current standards, policies, practices, operating procedures, and education and training materials are posted on the department website in accordance with Penal Code § 13650.

(i) Ensuring that public records posted on the Department website meet the requirements of Government Code § 7922.680 including but not limited to posting in an open format where a record may be retrieved, downloaded, indexed, and searched by a commonly used internet search application.

(j) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 7922.700) is publicly available upon request and posted in

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a prominent location on the Department's website (Government Code § 7922.710; Government Code § 7922.720).

810.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any Department member who receives a request for any public record shall route the request to the Custodian of Records or the authorized designee.

810.4.1 REQUESTS FOR RECORDS

Any member of the public, including the media and elected officials, may access unrestricted records of this department, during regular business hours by submitting a written and signed request that reasonably describes each record sought and paying any associated fees (Government Code § 7922.530).

The processing of requests for any record is subject to the following (Government Code § 7922.530; Government Code § 7922.535):

(a) The Department is not required to create records that do not exist.

(b) Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain department records or information. If identification is required, a current driver's license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable (Government Code § 7923.655).

(c) Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Custodian of Records or the authorized designee. If an extension is authorized, the Department shall provide the requester written notice that includes the reason for the extension and the anticipated date of the response.

1. When the request does not reasonably describe the records sought, the Custodian of Records shall assist the requester in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any practical basis for denying access to the records or information. The Custodian of Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 7922.600).

2. If the record requested is available on the department website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.

(d) Upon request, a record shall be provided in an electronic format utilized by the Department. Records shall not be provided only in electronic format unless specifically requested (Government Code § 7922.570; Government Code § 7922.580).

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(e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.

1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/ video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.

(f) If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure. The written response shall also include the names, titles, or positions of each person responsible for the denial (Government Code § 7922.000; Government Code § 7922.540).

810.5 RELEASE RESTRICTIONS

Examples of release restrictions include:

(a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any department record, including traffic collision reports, are restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).

(b) Social Security numbers (Government Code § 7922.200).

(c) Personnel records, medical records, and similar records that would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 7927.700; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).

1. Peace officer personnel records that are deemed confidential shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.

2. The identity of any officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Chief of Police, or as required by law.

(d) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors, and victims of certain offenses (e.g., sex crimes or human trafficking (Penal Code § 293)). Addresses and telephone numbers of a victim or a witness shall not be disclosed to any arrested person or to any person who may be a defendant in a criminal action unless it is required by law (Government Code § 7923.615; Penal Code § 841.5).

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1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, elder and dependent adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, a copy of any accompanying or related photographs of the victim's injuries, property damage, or any other photographs that are noted in the incident report, and a copy of 9-1-1 recordings, if any, pursuant to the requirements and time frames of Family Code § 6228.
2. Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).

(e) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 7923.750.

(f) Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved, or information that would endanger the successful completion of the investigation or a related investigation. This includes analysis and conclusions of investigating officers (Evidence Code § 1041; Government Code § 7923.605).

1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 7923.605.

(g) Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.

1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the [District/CountyAttorney], the City Attorney, or the courts pursuant to Penal Code § 1054.5.

(h) Certain types of reports involving but not limited to child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and Institutions Code § 15633), and juveniles (Welfare and Institutions Code § 827).

(i) Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants, or civil litigants under state and federal discovery laws (Code of Civil Procedure § 130).

(j) Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information (Government Code § 7923.800).

(k) Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies, and those individuals and their authorized representatives set forth in Vehicle Code § 20012.

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(l) Any record created exclusively in anticipation of potential litigation involving this department (Government Code § 7927.200).

(m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 7927.205).

(n) Records relating to the security of the department's electronic technology systems (Government Code § 7929.210).

(o) A record of a complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded (Penal Code § 832.7 (b)(9)).

(p) Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including but not limited to provisions of the Evidence Code relating to privilege (Government Code § 7927.705).

(q) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 827.95; Welfare and Institutions Code § 831).

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 (Government Code § 7923.625).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an officer, or depicts an incident in which the use of force by an officer against a person resulted in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) (Government Code § 7923.625).

The Custodian of Records should work as appropriate with the Chief of Police or the Professional Standards Unit supervisor in determining what recordings may qualify for disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

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.

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(c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (Government Code § 7923.625).

810.6.2 NOTICE OF DELAY OF RELEASE

When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Government Code § 7923.625):

(a) When delay is continued after the initial 45 days, the Custodian of Records shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure.

(a) The Custodian of Records should work with the Chief of Police in reassessing the decision to continue withholding a recording and notify the requester every 30 days. Records withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

810.6.3 REDACTION

If the Custodian of Records, in consultation with the Chief of Police or the authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Department should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 7923.625).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Custodian of Records shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (Government Code § 7923.625).

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 unredacted, shall be disclosed promptly, upon request, to any of the following (Government Code § 7923.625):

(a) The person in the recording whose privacy is to be protected, or the person's authorized representative.

(b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.

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(c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the Department determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 7923.625).

The Department may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 7923.625).

810.7 SEALED RECORD ORDERS

Sealed record orders received by the Department shall be reviewed for appropriate action by the Custodian of Records or designee. The Custodian of Records or designee shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once the record is sealed, members shall respond to any inquiry as though the record did not exist (Penal Code § 851.8; Welfare and Institutions Code § 781).

When an arrest record is sealed pursuant to Penal Code § 851.87, Penal Code § 851.90, Penal Code § 851.91, Penal Code § 1000.4, or Penal Code § 1001.9, the Custodian of Records or designee shall ensure that the required notations on local summary criminal history information and police investigative reports are made. Sealed records may be disclosed or used as authorized by Penal Code § 851.92.

810.7.1 SEALING JUVENILE RECORDS

Upon receiving notice from a probation department to seal a citation, juvenile arrest records, or other related records pursuant to Welfare and Institutions Code § 786.5, the Records Managershall ensure that the records are sealed within 60 days of that notice and that the probation department is notified once the records have been sealed (Welfare and Institutions Code § 786.5).

Upon receiving a list of juvenile arrest records that are eligible to be sealed from the California Department of Justice (DOJ), the Records Manager or the authorized designee shall review the records identified in the list and determine if the records are eligible to be sealed in accordance with Welfare and Institutions Code § 781.2. Within six months of receiving the list, the Records Manager or the authorized designee shall electronically report to the DOJ which records were sealed (Welfare and Institutions Code § 781.2).

810.8 SECURITY BREACHES

The Records 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

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will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following (Civil Code § 1798.29):

(a) Social Security number

1. Driver license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual
2. Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account
3. Medical information
4. Health insurance information
5. Information or data collected by Automated License Plate Reader (ALPR) technology
6. Unique biometric data
7. Genetic data

(b) A username or email address, in combination with a password or security question and answer that permits access to an online account

810.8.1 FORM OF NOTICE

(a) The notice shall be written in plain language, be consistent with the format provided in Civil Code § 1798.29 and include, to the extent possible, the following:

1. The date of the notice.
2. Name and contact information for the Newport Beach Police Department.
3. A list of the types of personal information that were or are reasonably believed to have been acquired.
4. The estimated date or date range within which the security breach occurred.
5. Whether the notification was delayed as a result of a law enforcement investigation.
6. A general description of the security breach.
7. The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a Social Security number or a driver license or California identification card number.

(b) The notice may also include information about what the Newport Beach Police Department has done to protect individuals whose information has been breached

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and may include information on steps that the person whose information has been breached may take to protect him/herself (Civil Code § 1798.29).

(c) When a breach involves an online account, and only a username or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached (Civil Code § 1798.29):

1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the Department in addition to any other online accounts for which the person uses the same username or email address and password or security question and answer.
2. When the breach involves an email address that was furnished by the Newport Beach Police Department, notification of the breach should not be sent to that email address but should instead be made by another appropriate medium as prescribed by Civil Code § 1798.29.

810.8.2 MANNER OF NOTICE

(a) Notice may be provided by one of the following methods (Civil Code § 1798.29):

1. Written notice.
2. Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC § 7001.
3. Substitute notice if the cost of providing notice would exceed $250,000, the number of individuals exceeds 500,000 or the Department does not have sufficient contact information. Substitute notice shall consist of all of the following:
    (a) Email notice when the Department has an email address for the subject person.
    (b) Conspicuous posting of the notice on the Department's webpage for a minimum of 30 days.
4. Notification to major statewide media and the California Information Security Office within the California Department of Technology.

(b) If a single breach requires the Department to notify more than 500 California residents, the Department shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the Attorney General.

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Protected Information

812.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Newport Beach Police Department. This policy addresses the protected information that is used in the day-to-day operation of the Department and not the public records information covered in the Records Maintenance and Release Policy.

812.1.1 DEFINITIONS

Definitions related to this policy include:

Protected information - Any information or data that is collected, stored or accessed by members of the Newport Beach Police Department and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

812.2 POLICY

Members of the Newport Beach Police Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

812.3 RESPONSIBILITIES

The Chief of Police shall select a member of the Department to coordinate the use of protected information.

The responsibilities of this position include but are not limited to:

(a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Department of Motor Vehicles (DMV) records, and California Law Enforcement Telecommunications System (CLETS).

(b) Developing, disseminating, and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy. See the Newport Beach Police Department CJIS Access, Maintenance, and Security Policy for additional guidance.

(c) Developing, disseminating, and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release, and security of protected information.

(d) Developing procedures to ensure training and certification requirements are met.

(e) Resolving specific questions that arise regarding authorized recipients of protected information.

(f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

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812.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Newport Beach Police Department policy, or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution. See the CJIS Access, Maintenance, and Security Policy for additional guidance.

812.4.1 PENALTIES FOR MISUSE OF RECORDS

It is a misdemeanor to furnish, buy, receive or possess Department of Justice criminal history information without authorization by law (Penal Code § 11143).

Authorized persons or agencies violating state regulations regarding the security of Criminal Offender Record Information (CORI) maintained by the California Department of Justice may lose direct access to CORI (11 CCR 702).

812.4.2 RELEASE OF CORI

Each authorized person releasing CORI is responsible to ensure that each request granted appears legitimate and that the requester is an authorized recipient (e.g. NBPD personnel, other law enforcement agency, city insurance carrier investigator) with a right and need to know. Persons authorized to inspect police records shall present identification and submit appropriate NBPD forms. Only the persons listed below are authorized to release CORI.

(a) Criminal Records Security Officer

(b) Employees of the Records Section

812.4.3 RELEASE OF CORI TO FIELD PERSONNEL

Personnel shall not have access to CORI until a background investigation has been completed and approved.

CORI shall not generally be transmitted by radio, cellular phone, or through computer terminals to field personnel or vehicles except in cases where circumstances reasonably indicate that the immediate safety of the officer or the public are at significant risk. Examples of situations where the transmission of summary criminal history information would be justified include a hostage situation or an armed suspect however a routine investigation or traffic enforcement stop would not be sufficient justification.

Nothing in this procedure is intended to prohibit COPLINK transmissions or broadcasting warrant information concerning wanted persons.

Personnel needing CORI to execute official responsibilities shall:

(a) Submit a Record Information Worksheet (1.60.1) to a Records Section employee; or

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(b) Make a verbal request to a Records Section employee with the reason for the request; and

(c) Review Policy Manual § 812.9 (Penalties for Misuse of Records)

812.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Records Manager for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Records Section to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

812.5.1 REVIEW OF CRIMINAL OFFENDER RECORD

Individuals requesting to review their own California criminal history information shall be referred to the Department of Justice (Penal Code § 11121).

Individuals shall be allowed to review their arrest or conviction record on file with the Department after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).

812.5.2 TRANSMISSION GUIDELINES

Protected information, such as restricted Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should not be transmitted via unencrypted radio. When circumstances reasonably indicate that the immediate safety of officers, other department members, or the public is at risk, only summary information may be transmitted.

In cases where the transmission of protected information, such as Personally Identifiable Information, is necessary to accomplish a legitimate law enforcement purpose, and utilization of an encrypted radio channel is infeasible, a MDC or department-issued cellular telephone should be utilized when practicable. If neither are available, unencrypted radio transmissions shall be subject to the following:

- Elements of protected information should be broken up into multiple transmissions, to minimally separate an individual’s combined last name and any identifying number associated with the individual, from either first name or first initial.
- Additional information regarding the individual, including date of birth, home address, or physical descriptors, should be relayed in separate transmissions.

Nothing in this policy is intended to prohibit broadcasting warrant information.

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812.6 SECURITY OF PROTECTED INFORMATION

The Chief of Police will select a member of the Department to oversee the security of protected information.

The responsibilities of this position include but are not limited to (see the CJIS Access, Maintenance, and Security Policy for additional guidance):

(a) Developing and maintaining security practices, procedures, and training.

(b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.

(c) Establishing procedures to provide for the preparation, prevention, detection, analysis, and containment of security incidents, including computer attacks.

(d) Tracking, documenting, and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

812.6.1 MEMBER RESPONSIBILITIES

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

812.7 TRAINING

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.

812.7.1 COMPUTER TERMINAL SECURITY

Computer terminal equipment capable of providing access to automated criminal offender record information is located in the Records Division to preclude access by unauthorized persons.

No employee shall be authorized to operate computer terminal equipment with access to CORI until the operator has completed the appropriate training.

812.7.2 DESTRUCTION OF CORI

When any document providing CORI has served the purpose for which it was obtained, it shall be destroyed by shredding.

Each employee shall be responsible for destroying the CORI documents they receive.

812.7.3 CUSTODIAN OF CRIMINAL RECORDS

The Records Manager, unless otherwise directed by the Support Services Division Commander, shall be the Department's official Custodian of Criminal Records. The Custodian of Criminal

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Records shall be responsible for the security, storage, dissemination and destruction of criminal records, and will serve as a primary contact for the California Department of Justice for any related issues. The Support Services Division Commander may appoint other department employees to the role of Custodian of Criminal Records, who will share the same responsibilities regarding criminal records.

The Support Services will ensure that he/she makes the appropriate applications and notifications to the California Department of Justice regarding the Department's Custodian of Criminal Record appointments, per the requirements of Penal Code § 11102.2.

This subsection is not intended to interfere with any other employee acting as a Custodian of Records for other statutory purposes but is narrowly tailored to address issues of criminal history records.

812.8 TRAINING PROGRAM

All personnel authorized to process or release CORI shall be required to complete a training program prescribed by the Criminal Record Security Officer. The Personnel and Training Unit shall coordinate the course to provide training in the proper use, control, and dissemination of CORI.

812.8.1 OPERATION OF OCATS/CLETS TERMINALS

OCATS/CLETS are acronyms for Orange County Automated Teletype System/California Law Enforcement Teletype System.

SWORN PERSONNEL

Operation of a OCATS/CLETS Terminal by sworn personnel in the performance of official duties is authorized.

NON-SWORN PERSONNEL

Operation of a OCATS/CLETS terminal by non-sworn personnel is authorized when:

- The employee has received a security clearance from the Custodian of Records; and
- It is necessary for the performance of his/her official duties.

812.9 PENALTIES FOR MISUSE OF RECORDS

Penal Code §§ 11140 and 11144 make it a misdemeanor to furnish, buy, receive, or possess Department of Justice rap sheets without authorization by a court, statute, or case law.

Title 11, California Administrative Code § 702 provides that authorized persons or agencies violating the Regulations Regarding the Security of Criminal Offender Record Information in California may lose direct access to CORI maintained by the California Department of Justice.

Divulging the content of any criminal record to anyone other than authorized personnel is a violation of Policy Manual § 340.3.7(a).

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Employees who obtain, or attempt to obtain, information from the department files other than that to which they are entitled in accordance with their official duties is a violation of Policy Manual § 340.3.7(a).

812.10 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not release personal information from any agency database for the purpose of investigation or enforcement of any program compiling data on individuals based on religious belief, practice, affiliation, national origin or ethnicity (Government Code § 8310.3).

812.11 SECTION TITLE

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Computers and Digital Evidence

814.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

814.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Officers should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When seizing a computer and accessories the following steps should be taken:

(a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.

(b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.

(c) If the computer is off, do not turn it on.

(d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.

1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery).

(e) Label each item with case number, evidence sheet number, and item number.

(f) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.

(g) Lodge all computer items in the Property Room. Do not store computers where normal room temperature and humidity is not maintained.

(h) At minimum, officers should document the following in related reports:

1. Where the computer was located and whether or not it was in operation.
2. Who was using it at the time.
3. Who claimed ownership.

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4. If it can be determined, how it was being used.

(i) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (hard drives, tape drives, and disk drives) should be seized along with all media. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software and manuals) should not be seized unless as a precursor to forfeiture.

814.2.1 BUSINESS OR NETWORKED COMPUTERS

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Officers should contact a certified forensic computer examiner for instructions or a response to the scene. It may be possible to perform an on-site inspection, or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence.

814.2.2 FORENSIC EXAMINATION OF COMPUTERS

If an examination of the contents of the computer's hard drive, or floppy disks, compact discs, or any other storage media is required, forward the following items to a computer forensic examiner:

(a) Copy of report(s) involving the computer, including the Evidence/Property sheet.

(b) Copy of a consent to search form signed by the computer owner or the person in possession of the computer, or a copy of a search warrant authorizing the search of the computer hard drive for evidence relating to investigation.

(c) If the person in control of the computer/media is on parole or probation with search terms, provide the parole information and/or minute order dictating the terms of probation to the Computer Forensic Examiner.

(d) A listing of the items to search for (e.g., photographs, financial records, e-mail, documents).

(e) An exact duplicate of the hard drive or disk will be made using a forensic computer and a forensic software program by someone trained in the examination of computer storage devices for evidence.

814.3 SEIZING DIGITAL STORAGE MEDIA

Digital storage media including hard drives, floppy discs, CD's, DVD's, tapes, memory cards, or flash memory devices should be seized and stored in a manner that will protect them from damage.

(a) If the media has a write-protection tab or switch, it should be activated.

(b) Do not review, access or open digital files prior to submission. If the information is needed for immediate investigation request the Property Office to copy the contents to an appropriate form of storage media.

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(c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.

(d) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.

(e) Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

814.4 SEIZING PCD'S

Personal communication devices such as cell phones, PDA's or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

(a) Officers should consider using a forensic expert to examine the device prior to accessing, reviewing or searching the contents of such devices. Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages.

(b) Do not turn the device on or off. The device should be placed in a solid metal container such as a paint can or in a faraday bag, to prevent the device from sending or receiving information from its host network.

(c) When seizing the devices, also seize the charging units and keep them plugged in to the chargers until they can be examined. If the batteries go dead all the data may be lost.

814.5 DIGITAL EVIDENCE RECORDED BY OFFICERS

Officers handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

814.5.1 COLLECTION OF DIGITAL EVIDENCE

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Video and audio files will not be altered in any way.

814.5.2 SUBMISSION OF DIGITAL MEDIA

The following are required procedures for the submission of digital media used by cameras or other recorders:

(a) The recording media (smart card, compact flash card or any other media) shall be brought to the Property Office as soon as possible for submission into evidence.

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(b) Officers are not authorized to review or copy memory cards. The evidence technicians are the only employees authorized to copy and/or distribute digital media made from the memory cards.

(c) As soon as possible following the collection of evidence, the camera operator is to remove the memory card from their digital camera and place the card into a plastic carrier. The card and carrier are then to be placed into a zip-lock type baggie. The camera operator shall write their name and the related case number on the outside of the baggie before placing in the film drop box along with the evidence form.

(d) Evidence technicians will make a copy of the memory card using appropriate storage media. Once they have verified that the images properly transferred to the storage media, the technicians will erase the memory card for re-use. The storage media will be marked as the original.

(e) Officers requiring a copy of the digital files must request a copy on the evidence form when submitted to evidence.

814.5.3 DOWNLOADING OF DIGITAL FILES

Digital information such as video or audio files recorded on devices using internal memory must be downloaded to storage media. The following procedures are to be followed:

(a) Files should not be opened or reviewed prior to downloading and storage.

(b) Where possible, the device should be connected to a computer and the files accessed directly from the computer directory or downloaded to a folder on the host computer for copying to the storage media.

814.5.4 PRESERVATION OF DIGITAL EVIDENCE

(a) Only evidence technicians are authorized to copy original digital media that is held as evidence. The original digital media shall remain in evidence and shall remain unaltered.

(b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.

(c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.

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Chapter 9 - Custody

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Temporary Custody of Adults

900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Newport Beach Police Department for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

900.1.1 DEFINITIONS

Definitions related to this policy include:

Holding cell/cell - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Department.

Safety checks - Direct, visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of adults in temporary custody.

900.2 POLICY

The Newport Beach Police Department is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Department. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

900.2.1 INJURIES TO ARRESTEES

Whenever an arrestee is injured during the arrest or booking procedure the following shall apply:

EMPLOYEE

Any employee involved in or witnessing such an injury shall immediately notify the Watch Commander.

WATCH COMMANDER

The Watch Commander shall ensure that:

- Necessary medical treatment is provided
- Any medical treatment reports are affixed to the "Jail Register" copy of the Custody and Identification Report [5.10]
    (a) Injuries are noted on the Custody and Identification Report [5.l0]

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- An injury report is completed when any prisoner injures himself while in custody and after booking. The circumstances surrounding the injuries should be described in the report.

Note: No injury report is required when an arrestee is injured during the arrest.

900.3

900.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Newport Beach Police Department, but should be transported to a jail facility, a medical facility, or another type of facility as appropriate. These include:

(a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.

(b) Any individual who has a medical condition, including pregnancy, that may require medical attention, supervision, or medication while in temporary custody.

(c) Any individual who is seriously injured.

(d) Individuals who are a suspected suicide risk (see the Mental Illness Commitments Policy).

1. If the officer taking custody of an individual believes that the individual may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release, or a transfer to an appropriate facility is completed (15 CCR 1030).

(e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.

(f) Individuals who are under the influence of alcohol, a controlled substance, or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.

(g) Any individual who has exhibited extremely violent or continuously violent behavior including behavior that results in the destruction of property or demonstrates an intent to cause physical harm to themselves or others (15 CCR 1053; 15 CCR 1055).

(h) Any individual who claims to have, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk (15 CCR 1051).

(i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to the individual's health or safety.

(j) Any individual with an obvious developmental disability (15 CCR 1057).

(k) Any individual who appears to be a danger to themselves or others due to a behavioral crisis, or who appears gravely disabled (15 CCR 1052).

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(l) Any individual who needs restraint beyond the use of handcuffs or shackles for security reasons (15 CCR 1058).

(m) Any individual obviously suffering from drug or alcohol withdrawal (15 CCR 1213).

Officers taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

900.3.2 SUPERVISION IN TEMPORARY CUSTODY

An authorized department member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with the member's supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody has a hearing or speech impairment, accommodations shall be made to provide this ability.

At least one female department member should be present when a female adult is in temporary custody. In the event that none is readily available, the female in custody should be transported to another facility or released pursuant to another lawful process (15 CCR 1027).

Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present (Penal Code § 4021).

No individual in custody shall be permitted to supervise, control, or exert any authority over other individuals in custody.

900.3.3 STAFFING PLAN

The Chief of Police or the authorized designee shall ensure a staffing plan is prepared and maintained, indicating assigned personnel and their duties. The plan should ensure that at least one member who meets the training standards established by the Board of State and Community Corrections (BSCC) for general fire- and life-safety and is trained in fire- and life-safety procedures relating specifically to the facility is on-duty at all times (15 CCR 1028).

The staffing plan shall be available for biennial review by BSCC staff. The review and recommendations of the BSCC biennial review shall be forwarded to the City, as required by 15 CCR 1027.

900.3.4 ENTRY RESTRICTIONS

Entry into any location where a person is held in custody should be restricted to:

(a) Authorized members entering for official business purposes.

(b) Emergency medical personnel when necessary.

(c) Any other person authorized by the Watch Commander.

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When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

900.4 INITIATING TEMPORARY CUSTODY

The officer responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The officer should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The receiving officer should ask the arresting officer if there is any statement, indication or evidence surrounding the individual's arrest and transportation that would reasonably indicate the individual is at risk for suicide or critical medical care. If there is any suspicion that the individual may be suicidal, he/she shall be transported to the City jail or the appropriate mental health facility.

The officer should promptly notify the Watch Commander of any conditions that may warrant immediate medical attention or other appropriate action. The Watch Commander shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.

900.4.1 SCREENING AND PLACEMENT

The officer responsible for an individual in custody shall (15 CCR 1050):

(a) Advise the Watch Commander of any significant risks presented by the individual (e.g., suicide risk, health risk, violence).

(b) Evaluate the following issues against the stated risks in (a) to determine the need for placing the individual in a single cell:

1. Consider whether the individual may be at a high risk of being sexually abused based on all available known information (28 CFR 115.141), or whether the person is facing any other identified risk.
2. Provide any individual identified as being at a high risk for sexual or other victimization with heightened protection. This may include (28 CFR 115.113; 28 CFR 115.141):
    (a) Continuous, direct sight and sound supervision.
    (b) Single-cell placement in a cell that is actively monitored on video by a member who is available to immediately intervene.
3. Ensure individuals are separated according to severity of the crime (e.g., felony or misdemeanor).
4. Ensure males and females are separated by sight and sound when in cells.
5. Ensure restrained individuals are not placed in cells with unrestrained individuals.

(c) Ensure that those confined under civil process or for civil causes are kept separate from those who are in temporary custody pending criminal charges.

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(d) Ensure separation, as appropriate, based on other factors, such as age, criminal sophistication, assaultive/non-assaultive behavior, mental state, disabilities and sexual orientation.

900.4.2 CONSULAR NOTIFICATION

Consular notification may be mandatory when certain foreign nationals are arrested. The Patrol Division Commander will ensure that the U.S. Department of State's list of countries and jurisdictions that require mandatory notification is readily available to department members. There should also be a published list of foreign embassy and consulate telephone and fax numbers, as well as standardized notification forms that can be transmitted and then retained for documentation. Prominently displayed signs informing foreign nationals of their rights related to consular notification should also be posted in areas used for the temporary custody of adults.

Department members assigned to process a foreign national shall:

(a) Inform the individual, without delay, that the individual may have the individual's consular officers notified of the arrest or detention and may communicate with them.
    1. This notification should be documented.

(b) Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.
    1. If the country is on the mandatory notification list, then:
        (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
        (b) Tell the individual that this notification has been made and inform the individual without delay that the individual may communicate with consular officers.
        (c) Forward any communication from the individual to the individual's consular officers without delay.
        (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual's file.
    2. If the country is not on the mandatory notification list and the individual requests that the individual's consular officers be notified, then:
        (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
        (b) Forward any communication from the individual to the individual's consular officers without delay.

900.5 SAFETY, HEALTH AND OTHER PROVISIONS

900.5.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody at the Newport Beach Police Department, the custody shall be promptly and properly documented in a custody log, including:

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(a) Identifying information about the individual, including the individual's name.

(b) Date and time of arrival at the Department.

(c) Any charges for which the individual is in temporary custody and any case number.

(d) Time of all safety checks (15 CCR 1027; 15 CCR 1027.5).

(e) Any medical and other screening requested and completed.

(f) Any emergency situations or unusual incidents.

(g) Any other information that may be required by other authorities, such as compliance inspectors.

(h) Date and time of release from the Newport Beach Police Department.

The Watch Commander should initial the log to approve the temporary custody and should also initial the log when the individual is released from custody or transferred to another facility.

The Watch Commander should make periodic checks to ensure all log entries and safety and security checks are made on time.

900.5.2 TEMPORARY CUSTODY REQUIREMENTS

Members monitoring or processing anyone in temporary custody shall ensure:

(a) Safety checks and significant incidents/activities are noted on the log.

(b) Individuals in custody are informed that they will be monitored at all times, except when using the toilet.

1. There shall be no viewing devices, such as peep holes or mirrors, of which the individual is not aware.

2. This does not apply to surreptitious and legally obtained recorded interrogations.

(c) There is reasonable access to toilets and wash basins.

(d) There is reasonable access to a drinking fountain or water.

(e) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.

(f) There is privacy during attorney visits.

(g) Those in temporary custody are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.

(h) Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.

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

(i) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.

(j) Adequate furnishings are available, including suitable chairs or benches.

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900.5.3 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to department members (15 CCR 1220). At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor should meet with those providing medical aid at the facility to allow access to the person. Members shall comply with the opinion of medical personnel as to whether an individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, he/she will be accompanied by an officer.

Those who require medication while in temporary custody should not be at the Newport Beach Police Department. They should be released or transferred to another facility as appropriate.

900.5.4 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the member supervising the individual has probable cause to believe the possession of the appliance presents a risk of bodily harm to any person or is a risk to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to his/her health or safety.

Whenever a prosthetic or orthopedic appliance is removed, the Watch Commander shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists (Penal Code § 2656; 15 CCR 1207).

900.5.5 TELEPHONE CALLS

Immediately upon being booked and, except where physically impossible, no later than three hours after arrest, an individual in custody has the right to make at least three completed calls to an attorney, bail bondsman, and a relative or other person (Penal Code § 851.5). Additional calls may be made as reasonable and necessary (15 CCR 1067). In providing further access to a telephone beyond that required by Penal Code § 851.5, legitimate law enforcement interests such as officer safety, effect on ongoing criminal investigations, and logistics should be balanced against the individual's desire for further telephone access.

(a) Telephone calls may be limited to local calls, except that long-distance calls may be made by the individual at the individual's own expense.

    1. The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult (see the Child and Dependent Adult Safety Policy).

    2. The provisions of Penal Code § 851.5 concerning this issue shall be posted in bold, block type in a conspicuous place within the facility.

(b) The individual should be given sufficient time to contact whomever the individual desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.

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1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use the member's judgment in determining the duration of the calls.
2. Within three hours of the arrest, the member supervising the individual should inquire whether the individual is a custodial parent with responsibility for a minor child, and notify the individual that the individual may make two additional telephone calls to a relative or other person for the purpose of arranging for the care of minor children (Penal Code § 851.5).

(c) Calls between an individual in temporary custody and the individual's attorney shall be deemed confidential and shall not be monitored, eavesdropped upon, or recorded (Penal Code § 851.5(b)(1); 15 CCR 1068).

900.5.6 RELIGIOUS ACCOMMODATION

Subject to available resources, safety and security, the religious beliefs and needs of all individuals in custody should be reasonably accommodated (15 CCR 1072). Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The responsible supervisor should be advised any time a request for religious accommodation is denied.

Those who request to wear headscarves or simple head coverings for religious reasons should generally be accommodated absent unusual circumstances. Head coverings shall be searched before being worn.

Individuals wearing headscarves or other approved coverings shall not be required to remove them while in the presence of or while visible to the opposite sex if they so desire. Religious garments that substantially cover the individual’s head and face may be temporarily removed during the taking of any photographs.

900.5.7 FIREARMS AND OTHER SECURITY MEASURES

Firearms and other weapons and control devices shall not be permitted in secure areas where individuals are in custody or are processed. They should be properly secured outside of the secure area. An exception may occur only during emergencies, upon approval of a supervisor.

All perimeter doors to secure areas shall be kept locked at all times, except during routine cleaning, when no individuals in custody are present or in the event of an emergency, such as an evacuation.

900.5.8 REPORTING PHYSICAL HARM OR SERIOUS THREAT OF PHYSICAL HARM

In addition to a custody log entry, any incident that results in physical harm or serious threat of physical harm to a member, person in custody, or any other person shall be documented as stated in the Use of Force or Occupational Disease and Work-Related Injury Reporting policies, or other applicable reporting process. A copy of all reports generated regarding the above circumstances shall be submitted as soon as reasonably practicable. The Watch Commander will retain a record of these reports for inspection purposes (15 CCR 1044).

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900.5.9 ATTORNEYS AND BAIL BONDSMEN

(a) An attorney may visit at the request of the individual in custody or a relative (Penal Code § 825).

(b) Attorneys and bail bondsmen who need to interview an individual in custody should do so inside a secure interview room.

(c) The individual in custody as well as the attorney or bail bondsman should be searched for weapons prior to being admitted to the interview room and at the conclusion of the interview.

(d) Attorneys must produce a current California Bar card as well as other matching appropriate identification.

(e) Interviews between attorneys and their clients shall not be monitored or recorded (15 CCR 1068).

900.5.10 DISCIPLINE

Discipline will not be administered to any individual in custody at this facility. Any individual in custody who repeatedly fails to follow directions or facility rules should be transported to the appropriate jail, mental health facility or hospital as soon as practicable. Such conduct should be documented and reported to the receiving facility (15 CCR 1081).

900.5.11 EMERGENCY ALARMS

Members should have reasonable access to emergency alarms (i.e., duress/panic alarms), either as part of an installed system or as a function on members' portable radios. Members entering a secured area not equipped with an installed emergency alarm system shall carry portable radios when a person in temporary custody is present.

900.6 USE OF RESTRAINT DEVICES

Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk, handcuffs should generally be removed when the person is in a cell.

The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the Newport Beach Police Department unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy.

Individuals in temporary custody should only be secured to a fixed object if the object is designed and intended for such use.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

900.6.1 PREGNANT ADULTS

Adults who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

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900.6.2 EMERGENCY EVACUATION
When time permits, all prisoners will be restrained, as deemed necessary by the officer conducting the evacuation. The evacuation will be conducted in an orderly fashion by one of the routes posted in the Jail Facility.

900.7 PERSONAL PROPERTY

The personal property of an individual in temporary custody should be removed, inventoried, and processed as provided in the Custodial Searches Policy, unless the individual requests a different disposition. For example, an individual may request property (i.e., cash, car or house keys, medications) be released to another person. A request for the release of property to another person must be made in writing. Release of the property requires the recipient's signature on the appropriate form.

Upon release of an individual from temporary custody, the individual's items of personal property shall be compared with the inventory, and the individual shall sign a receipt for the property's return. If the individual is transferred to another facility or court, the member transporting the individual is required to obtain the receiving person's signature as notice of receipt. The Department shall maintain a copy of the property receipt.

The Watch Commander shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding the individual's property. The Watch Commander shall attempt to prove or disprove the claim.

900.8 HOLDING CELLS

A thorough inspection of a cell shall be conducted before placing an individual into the cell to ensure there are no weapons or contraband and that the cell is clean and sanitary. An inspection also should be conducted when the individual is released. Any damage noted to the cell should be photographed and documented.

The following requirements shall apply:

(a) The individual shall be searched (see the Custodial Searches Policy), and anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces, and jackets, shall be removed.

(b) The individual shall constantly be monitored by an audio/video system during the entire custody.

(c) The individual shall have constant auditory access to department members.

(d) The individual's initial placement into and removal from a locked enclosure shall be logged.

(e) Safety checks by department members shall occur no less than every 15 minutes (15 CCR 1027.5).

1. Safety checks should be at varying times.
2. All safety checks shall be logged.

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3. The safety check should involve questioning the individual as to the individual's well-being.
4. Individuals who are sleeping or apparently sleeping should be awakened.
5. Requests or concerns of the individual should be logged.

900.8.1 USE OF SOBERING CELL

Individuals who are to be held in the temporary holding facility and who present a threat to their own safety or the safety of others due to their state of intoxication should be placed in a sobering cell until their condition allows for continued processing.

The following guidelines apply when placing any individual in a sobering cell (15 CCR 1056):

(a) Placement of an individual into the cell requires approval of the Watch Commander.

(b) A cell log shall be initiated every time an individual is placed in the cell. The log shall be maintained for the entire time the individual is housed in the cell.

(c) A safety check consisting of direct visual observation sufficient to assess the individual's well-being and behavior shall occur at least once every 30 minutes with no more than a 15-minute lapse between safety checks. Each safety check shall be documented in the cell log. Supervisors shall check the logs for completeness every two hours and document this action on the cell log.

(d) Under no circumstances shall an individual be held in a sobering cell for more than six hours without being evaluated by qualified medical personnel to ensure that the individual does not have an urgent medical issue.

(e) Individuals will be removed from the cell when they no longer pose a threat to their own safety and the safety of others, and are able to continue processing.

900.9 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY

The PatrolDivision Commander will ensure procedures are in place to address any suicide attempt, death, or serious injury of any individual in temporary custody at the Newport Beach Police Department. The procedures should include the following:

(a) Immediate request for emergency medical assistance if appropriate

(b) Immediate notification of the Watch Commander, Chief of Police, and DetectiveDivision Commander

(c) Notification of the spouse, next of kin, or other appropriate person

1. In-custody death notification shall be made within 24 hours as provided by Penal Code § 4032.5.

(d) Notification of the appropriate prosecutor

(e) Notification of the City Attorney

(f) Notification of the Coroner

(g) Evidence preservation

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(h) In-custody death review reports in compliance with 15 CCR 1046

1. A copy of the initial review report of an in-custody death shall be provided to the BSCC within 60 days of the death.

(i) Preparation of a written report to the Attorney General within 10 days of any death in custody including any reasonably known facts concerning the death (Government Code § 12525)

1. A copy of the report submitted to the Attorney General shall also be submitted to the BSCC within 10 days of the death (15 CCR 1046).

2. Any change or new information that becomes available after the initial reporting to the Attorney General shall be updated in the report and provided to the Attorney General within 10 days of the date of the change or the date the new information becomes available.

900.9.1 IN-CUSTODY DEATH PUBLICATION

The Chief of Police or the authorized designee should ensure that all specified information relating to an in-custody death is posted on the department website as prescribed and within the time frames provided in Penal Code § 10008.

900.10 RELEASE AND/OR TRANSFER

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

(a) All proper reports, forms, and logs have been completed prior to release.

(b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.

(c) It has been confirmed that the correct individual is being released or transported.

(d) All property, except evidence, contraband, or dangerous weapons, has been returned to, or sent with, the individual.

(e) All pertinent documentation accompanies the individual being transported to another facility (e.g., copies of booking forms, medical records, an itemized list of the individual's property, warrant copies).

(f) The individual is not permitted in any nonpublic areas of the Newport Beach Police Department unless escorted by a member of the Department.

(g) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if the individual is being sent to another facility.

(h) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with the person's personal needs as reasonable.

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900.10.1 FORM REQUEST FOR PETITION TO SEAL RECORDS
Upon request, a detained arrestee released from custody shall be provided with the appropriate Judicial Council forms to petition the court to have the arrest and related records sealed (Penal Code § 851.91).

The Department shall display the required signage that complies with Penal Code § 851.91 advising an arrestee of the right to obtain the Judicial Council forms.

900.11 ASSIGNED ADMINISTRATOR
The Patrol Division Commander will ensure any reasonably necessary supplemental procedures are in place to address the following issues (15 CCR 1029):

(a) General security

(b) Key control

(c) Sanitation and maintenance

(d) Emergency medical treatment (15 CCR 1200)

(e) Escapes

(f) Evacuation plans

(g) Fire- and life-safety, including a fire suppression pre-plan as required by 15 CCR 1032

(h) Disaster plans (e.g., natural disasters)

(i) Building and safety code compliance

(j) Civil and other disturbances including hostage situations

(k) Periodic testing of emergency equipment

(l) Emergency suspension of Title 15 regulations and notice to the BSCC as required in 15 CCR 1012

(m) Inspections and operations reviews

(n) Any other applicable requirements under 15 CCR 1029

Annual review and evaluation of security measures including internal and external security measures, sanitation, safety, and maintenance (15 CCR 1280).

These supplemental procedures shall be reviewed and updated no less than every two years and shall be available to all members (15 CCR 1029).

900.12 TRAINING
Training for department members should include initial and annual review, including but not limited to:

(a) A review of this policy and any related procedures.

(b) Appropriate training on procedures related to using processing/testing areas.

(c) In-service training as required by the Department.

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900.12.1 STATE-REQUIRED TRAINING

Department members responsible for supervising adults in temporary custody shall complete the Corrections Officer Core Course or eight hours of specialized training within six months of assignment. Such training shall include but not be limited to the following (15 CCR 1024):

(a) Applicable minimum jail standards

(b) Jail operations liability

(c) Separation of incarcerated persons

(d) Emergency procedures and planning, fire safety, and life safety

(e) Suicide prevention

(f) De-escalation

(g) Juvenile procedures

(h) Racial bias

(i) Mental illness

Eight hours of refresher training shall be completed every two years (15 CCR 1024).

The Training Manager shall maintain records of all such training in the member's training file.

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Inmate Welfare Account

901.1 PURPOSE AND SCOPE

Inmate welfare funds shall be used primarily for the benefit, recreation, education or welfare of inmates. They may not be used to pay any ordinary expenses of confinement, such as inmate meals, clothing, housing or medical services. Appropriate expenditures include, but are not limited to supplies, equipment, tools and contracted services for such inmate programs.

Funds not expended on direct payment for items intended for the welfare of inmates may be expended for other reasons related to inmate welfare, i.e.; salary and benefits of personnel who produce programs to benefit inmates such as educational programs, drug and alcohol treatment programs, welfare programs, library access, accounting procedures and other appropriate programs.

Section 4025 PC requires that revenues from inmate telephones be deposited in the inmate welfare account.

901.1.1 CIVILIAN CUSTODY SUPERVISOR'S RESPONSIBILITIES

The Civilian Custody Supervisor shall, not later than the 15th of January of each year, prepare an itemized report of:

- Funds deposited into the account
- Expenditures from the account during the preceding calendar year

The Civilian Custody Supervisor shall insure that the report is made available to the public and inmates as required by Title 15, Chapter 1, California Code of Regulations.

901.1.2 SUPPORT SERVICES DIVISION COMMANDER'S RESPONSIBILITY

The Support Services Division Commander shall insure that a biennial audit of the account is conducted by the Finance Department.

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Custodial Searches

902.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Newport Beach Police Department facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

902.1.1 DEFINITIONS

Definitions related to this policy include:

Custody search - An in-custody search of an individual and of the individual's property, shoes, and clothing, including pockets, cuffs, and folds on the clothing, to remove all weapons, dangerous items, and contraband.

Physical body cavity search - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach, rectal cavity, or vagina of an individual.

Strip search - A search that requires an individual to remove or rearrange some or all of the individual's clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus, or outer genitalia. This includes monitoring an individual who is changing clothes, where the individual's underclothing, buttocks, genitalia, or female breasts are visible.

902.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

902.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after the individual's arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search.

902.4 SEARCHES AT POLICE FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to the Newport Beach Police Department facilities. Except in exigent circumstances, the search should be

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conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

902.4.1 PROPERTY

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this department, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another department member. The inventory should include the case number, date, time, member's Newport Beach Police Department identification number and information regarding how and when the property may be released.

902.4.2 VERIFICATION OF MONEY

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The department member sealing it should place the member's initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

902.5 STRIP SEARCHES

No individual in temporary custody at any Newport Beach Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

(a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.

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(b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.

1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.

(c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).

(d) The individual's actions or demeanor.

(e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

902.5.1 STRIP SEARCH PROCEDURES

Strip searches at Newport Beach Police Department facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

(a) Written authorization from the Watch Commander shall be obtained prior to the strip search.

(b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.

(c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.

(d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.

(e) Members conducting a strip search shall not touch the breasts, buttocks, or genitalia of the individual being searched.

(f) The primary member conducting the search shall prepare a written report to include:

1. The facts that led to the decision to perform a strip search.
2. The reasons less intrusive methods of searching were not used or were insufficient.
3. The written authorization for the search, obtained from the Watch Commander.
4. The name of the individual who was searched.
5. The name and sex of the members who conducted the search.
6. The name, sex, and role of any person present during the search.
7. The time and date of the search.

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8. The place at which the search was conducted.
9. A list of the items, if any, that were recovered.
10. The facts upon which the member based the member's belief that the individual was concealing a weapon or contraband.

(g) No member should view an individual's private underclothing, buttocks, genitalia, or breasts while that individual is showering, performing bodily functions, or changing clothes, unless the individual would otherwise qualify for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect the individual's privacy and dignity.

(h) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the Watch Commander shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.

(i) A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name, and sex of the person conducting the search, and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

902.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with Watch Commander authorization and only in exceptional circumstances, such as when:

(a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.

(b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Watch Commander authorization does not need to be in writing.

902.6 PHYSICAL BODY CAVITY SEARCH

Physical body cavity searches shall be subject to the following (Penal Code § 4030):

(a) No individual shall be subjected to a physical body cavity search without written approval of the Watch Commander and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).

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(b) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse or Emergency Medical Technician Level II licensed to practice in California may conduct a physical body cavity search.

(c) Except for the physician or licensed medical personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary department members needed to maintain the safety and security of the medical personnel shall be present.

(d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.

(e) All such searches shall be documented, including:

1. The facts that led to the decision to perform a physical body cavity search of the individual.
2. The reasons less intrusive methods of searching were not used or were insufficient.
3. The Watch Commander's approval.
4. A copy of the search warrant.
5. The time, date and location of the search.
6. The medical personnel present.
7. The names, sex and roles of any department members present.
8. Any contraband or weapons discovered by the search.

(f) Copies of the written authorization and search warrant shall be retained and shall be provided to the individual who was searched or other authorized representative upon request. A record of the time, date, place of the search, the name and sex of the person conducting the search and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

902.7 TRAINING

The Training Manager shall ensure members have training that includes (28 CFR 115.115):

(a) Conducting searches of cross-gender individuals.

(b) Conducting searches of transgender and intersex individuals.

(c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

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Prison Rape Elimination

904.1 PURPOSE AND SCOPE

This policy provides guidance for complying with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect, and respond to sexual abuse, harassment, and retaliation against individuals in custody in the Newport Beach Police Department Temporary Holding Facilities (28 CFR 115.111; 15 CCR 1029).

904.1.1 DEFINITIONS

Definitions related to this policy include:

Intersex - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development (28 CFR 115.5).

Sexual abuse - Any of the following acts, if the detainee does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse (28 CFR 115.6; 15 CCR 1006):

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation

Sexual abuse also includes abuse by a staff member, contractor, or volunteer as follows, with or without consent of the individual in custody:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire

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- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described above
- Any display by a staff member, contractor, or volunteer of the staff member's uncovered genitalia, buttocks, or breast in the presence of an individual in custody
- Voyeurism by a staff member, contractor, or volunteer

Sexual harassment - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an individual in custody that are directed toward another; repeated verbal comments or gestures of a sexual nature to an individual in custody by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6; 15 CCR 1006).

Transgender - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

904.2 POLICY

The Newport Beach Police Department has zero tolerance toward all forms of sexual abuse and sexual harassment (28 CFR 115.111). The Department will not tolerate retaliation against any person who reports sexual abuse or sexual harassment or who cooperates with a sexual abuse or sexual harassment investigation.

The Newport Beach Police Department will take immediate action to protect those in its custody who are reasonably believed to be subject to a substantial risk of imminent sexual abuse (28 CFR 115.162; 15 CCR 1029).

904.3 PREA COORDINATOR

The Chief of Police shall appoint an upper-level manager with sufficient time and authority to develop, implement, and oversee department efforts to comply with PREA standards in the Newport Beach Police Department Temporary Holding Facilities (28 CFR 115.111). The PREA Coordinator's responsibilities shall include:

(a) Developing and maintaining procedures to comply with the PREA Rule.

(b) Ensuring that any contract for the confinement of individuals in custody includes the requirement to adopt and comply with applicable PREA standards and the PREA Rule, including the obligation to provide incident-based and aggregated data, as required in 28 CFR 115.187 (28 CFR 115.112).

(c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect those in custody from sexual abuse (28 CFR 115.113; 15 CCR 1029). This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year.

(d) Developing methods for staff to privately report sexual abuse and sexual harassment of individuals in custody (28 CFR 115.151).

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(e) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators, and department leadership to an incident of sexual abuse (28 CFR 115.165).

(f) Ensuring a protocol is developed for investigating allegations of sexual abuse in the Temporary Holding Facility. The protocol shall include (28 CFR 115.121; 28 CFR 115.122):

1. Evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/ Adolescents" or a similarly comprehensive and authoritative protocol.
2. A process to ensure a criminal or administrative investigation is completed on all allegations of sexual abuse or sexual harassment.
3. A process to document all referrals to other law enforcement agencies.
4. Access to forensic medical examinations, without financial cost, for all victims of sexual abuse where appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The efforts to provide SAFEs or SANEs shall be documented.
5. In accordance with security needs, provisions to give, to the extent available, individuals in custody access to victim advocacy services if the individual is transported for a forensic examination to an outside hospital that offers such services.

(g) Ensuring that individuals with limited English proficiency and disabilities have an equal opportunity to understand and benefit from efforts to prevent, detect, and respond to sexual abuse and sexual harassment. This includes, as appropriate, access to interpreters and written materials in formats or through methods that provide effective communication to those with disabilities (e.g., limited reading skills, intellectual, hearing, or vision disabilities) (28 CFR 115.116).

1. The agency shall not rely on other individuals in custody for assistance except in limited circumstances where an extended delay in obtaining an interpreter could compromise the individual's safety, the performance of first-response duties under this policy, or the investigation of an individual's allegations of sexual abuse, harassment, or retaliation.

(h) Publishing on the department's website:

1. Information on how to report sexual abuse and sexual harassment on behalf of an individual in custody (28 CFR 115.154).
2. A protocol describing the responsibilities of the Department and any other investigating agency that will be responsible for conducting sexual abuse or sexual harassment investigations (28 CFR 115.122).

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(i) Establishing a process that includes the use of a standardized form and set of definitions to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under this agency's direct control (28 CFR 115.187; 34 USC § 30303; 15 CCR 1041).

1. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by DOJ, or any subsequent form developed by DOJ and designated for lockups.

2. The data shall be aggregated at least annually.

(j) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 for all Temporary Holding Facilities used to house individuals in custody overnight (28 CFR 115.193).

(k) Ensuring contractors or others who work in the Temporary Holding Facility are informed of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment (28 CFR 115.132).

(l) Ensuring that information for uninvolved incarcerated persons, family, community members, and other interested third parties to report sexual abuse or sexual harassment is publicly posted at the facility (15 CCR 1029).

904.4 REPORTING SEXUAL ABUSE, HARASSMENT, AND RETALIATION

Individuals in custody may make reports to any staff member verbally, in writing, privately, or anonymously of any of the following (28 CFR 115.151; 15 CCR 1029):

- Sexual abuse
- Sexual harassment
- Retaliation by other individuals in custody or staff for reporting sexual abuse or sexual harassment
- Staff neglect or violation of responsibilities that may have contributed to sexual abuse or sexual harassment

Individuals in custody shall be notified of the department zero-tolerance policy regarding sexual abuse and sexual harassment, and of at least one way to report abuse or harassment to a public or private entity that is not part of the Department and that is able to receive and immediately forward a report of sexual abuse and sexual harassment to agency officials. This allows the individual to remain anonymous (28 CFR 115.132; 28 CFR 115.151).

904.4.1 MEMBER RESPONSIBILITIES

Department members shall accept reports from individuals in custody and third parties and shall promptly document all reports (28 CFR 115.151; 15 CCR 1029).

All members shall report immediately to the Watch Commander any knowledge, suspicion, or information regarding:

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(a) An incident of sexual abuse or sexual harassment that occurs in the Temporary Holding Facility.

(b) Retaliation against individuals in custody or the member who reports any such incident.

(c) Any neglect or violation of responsibilities on the part of any department member that may have contributed to an incident or retaliation (28 CFR 115.161).

No member shall reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment and investigation decisions.

904.4.2 WATCH COMMANDER RESPONSIBILITIES

The Watch Commander shall report to the department's designated investigators all allegations of sexual abuse, harassment, retaliation, neglect, or violations leading to sexual abuse, harassment, or retaliation. This includes third-party and anonymous reports (28 CFR 115.161).

If the alleged victim is under the age of 18 or considered a vulnerable adult, the Watch Commander shall also report the allegation as required under mandatory reporting laws and department policy.

Upon receiving an allegation that an individual in custody was sexually abused while confined at another facility, the Watch Commander shall notify the head of the facility or the appropriate office of the agency where the alleged abuse occurred. The notification shall be made as soon as possible but no later than 72 hours after receiving the allegation. The Watch Commander shall document such notification (28 CFR 115.163).

If an alleged victim is transferred from the Temporary Holding Facility to a jail, prison, or medical facility, the Department shall, as permitted by law, inform the receiving facility of the incident and the individual's potential need for medical or social services, unless the individual requests otherwise (28 CFR 115.165).

904.5 INVESTIGATIONS

The Department shall promptly, thoroughly and objectively investigate all allegations, including third-party and anonymous reports, of sexual abuse or sexual harassment. Only investigators who have received department-approved special training shall conduct sexual abuse investigations (28 CFR 115.171).

904.5.1 FIRST RESPONDERS

The first officer to respond to a report of sexual abuse or sexual assault shall (28 CFR 115.164):

(a) Separate the parties.

(b) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.

(c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

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(d) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

If the first responder is not an officer the responder shall request that the alleged victim not take any actions that could destroy physical evidence and should then notify a law enforcement staff member (28 CFR 115.164).

904.5.2 INVESTIGATOR RESPONSIBILITIES

Investigators shall (28 CFR 115.171):

(a) Gather and preserve direct and circumstantial evidence, including any available physical and biological evidence and any available electronic monitoring data.

(b) Interview alleged victims, suspects, and witnesses.

(c) Review any prior complaints and reports of sexual abuse involving the suspect.

(d) Conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

(e) Assess the credibility of the alleged victim, suspect, or witness on an individual basis and not by the person's status as a detainee or a member of the Newport Beach Police Department.

(f) Document in written reports a description of physical, testimonial, documentary, and other evidence, the reasoning behind any credibility assessments, and investigative facts and findings.

(g) Refer allegations of conduct that may be criminal to the District Attorney for possible prosecution, including any time there is probable cause to believe an individual in custody sexually abused another individual in custody in the Temporary Holding Facility (28 CFR 115.178).

(h) Cooperate with outside investigators and remain informed about the progress of any outside investigation.

904.5.3 ADMINISTRATIVE INVESTIGATIONS

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. The departure of the alleged abuser or victim from the employment or control of this department shall not be used as a basis for terminating an investigation (28 CFR 115.171).

904.5.4 SEXUAL ASSAULT AND SEXUAL ABUSE VICTIMS

No individual in custody who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation (28 CFR 115.171(e)).

Victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment. Treatment services shall be provided to the victim without financial cost and regardless of whether

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the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.182).

904.5.5 CONCLUSIONS AND FINDINGS

All completed investigations shall be forwarded to the Chief of Police, or if the allegations may reasonably involve the Chief of Police, to the City Manager. The Chief of Police or the City Manager shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.172).

All personnel shall be subject to disciplinary sanctions up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for department members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history, and the sanctions imposed for comparable offenses by other members with similar histories (28 CFR 115.176).

All terminations for violations of this policy, or resignations by members who would have been terminated if not for their resignation, shall be criminally investigated unless the activity was clearly not criminal and reported to any relevant licensing body (28 CFR 115.176).

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with individuals in custody and reported to any relevant licensing bodies (28 CFR 115.177). The Chief of Police shall take appropriate remedial measures and consider whether to prohibit further contact with individuals in custody by a contractor or volunteer.

904.6 RETALIATION PROHIBITED

All individuals in custody and members who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation (28 CFR 115.167). If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual.

The Watch Commander or the authorized designee shall employ multiple protection measures, such as housing changes or transfers for victims or abusers, removal of alleged abusers from contact with victims, and emotional support services for individuals in custody or members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

The Watch Commander or the authorized designee shall identify a staff member to monitor the conduct and treatment of individuals in custody or members who have reported sexual abuse and of those who were reported to have suffered sexual abuse. The staff member shall act promptly to remedy any such retaliation. In the case of individuals in custody, such monitoring shall also include periodic status checks.

904.7 REVIEWS AND AUDITS

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904.7.1 INCIDENT REVIEWS

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The review should occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials and seek input from line supervisors and investigators (28 CFR 115.186).

The review shall (28 CFR 115.186):

(a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.

(b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.

(c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.

(d) Assess the adequacy of staffing levels in that area during different shifts.

(e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The review team shall prepare a report of its findings, including any determinations made pursuant to this section and any recommendations for improvement. The report shall be submitted to the Chief of Police and the PREA Coordinator. The Chief of Police or the authorized designee shall implement the recommendations for improvement or shall document the reasons for not doing so (28 CFR 115.186).

904.7.2 DATA REVIEWS

The facility shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The review should include, as needed, data from incident-based documents, including reports, investigation files and sexual abuse incident reviews (28 CFR 115.187).

The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training. An annual report shall be prepared that includes (28 CFR 115.188):

(a) Identification of any potential problem areas.

(b) Identification of any corrective actions taken.

(c) Recommendations for any additional corrective actions.

(d) A comparison of the current year’s data and corrective actions with those from prior years.

(e) An assessment of the Department’s progress in addressing sexual abuse.

The report shall be approved by the Chief of Police and made readily available to the public through the department website or, if it does not have one, through other means. Material may be

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redacted from the reports when publication would present a clear and specific threat to the safety and security of the Temporary Holding Facility. However, the nature of the redacted material shall be indicated.

All aggregated sexual abuse data from Newport Beach Police Department facilities and private facilities with which it contracts shall be made readily available to the public at least annually through the department website or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.189).

904.8 RECORDS

The Department shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Department, plus five years (28 CFR 115.171).

All other data collected pursuant to this policy shall be securely retained for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise (28 CFR 115.189).

904.9 TRAINING

All department members and contractors who may have contact with individuals in custody shall receive department-approved training on the prevention and detection of sexual abuse and sexual harassment within this facility. The Training Manager shall be responsible for developing and administering this training as appropriate, covering at a minimum (28 CFR 115.131):

- The Department's zero-tolerance policy and the right of individuals in custody to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- The dynamics of sexual abuse and harassment in confinement settings, including which individuals in custody are most vulnerable.
- The right of individuals in custody and staff members to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- Detecting and responding to signs of threatened and actual abuse.
- Communicating effectively and professionally with all individuals in custody.
- Compliance with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Investigators assigned to sexual abuse investigations shall also receive training in conducting such investigations in confinement settings. Training should include (28 CFR 115.134):

- Techniques for interviewing sexual abuse victims.
- Proper use of *Miranda* and *Garrity* warnings.
- Sexual abuse evidence collection in confinement settings.

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- Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Training Manager shall maintain documentation that employees, volunteers, contractors, and investigators have completed required training and that they understand the training. This understanding shall be documented through individual signature or electronic verification.

All current department members who may have contact with individuals in custody shall be trained within one year of the effective date of the PREA standards. The agency shall provide annual refresher information to all such members to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.

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Chapter 10 - Personnel

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Recruitment and Selection

1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Newport Beach Police Department and that are promulgated and maintained by the Personnel Department.

1000.2 POLICY

In accordance with applicable federal, state, and local law, the Newport Beach Police Department provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

1000.3 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 Name of your jurisdiction: Personnel Department maintains standards for all positions. The dilemma facing the Department is one of developing a job-valid and non-discriminatory set of policies which will allow it to lawfully exclude persons who do not meet the Name of your jurisdiction: or State of California hiring standards. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which are used as a professional standard in background investigations. The following standards have been adopted for public safety applicants:

1000.3.1 ILLEGAL USE OR POSSESSION OF DRUGS

(a) The following examples of illegal drug use or possession will be considered automatic disqualifiers for public safety applicants, with no exceptions:

1. Any use or possession of a drug classified as a hallucinogenic within five years prior to application for employment

2. Any other illegal use or possession of a drug not mentioned above (including cocaine) within five years prior to application for employment

3. Any illegal use or possession of a drug while employed in any law enforcement capacity, military police, or as a student enrolled in college-accredited courses related to the criminal justice field

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4. Any manufacture or cultivation of a drug or illegal substance

5. Failure to divulge to the Department any information about personal illegal use or possession of drugs

6. Any drug test of the applicant, during the course of the hiring process, where illegal drugs are detected

(b) The following examples of illegal drug use or possession will be considered in relationship to the overall background of that individual and may result in disqualification:

1. Any illegal use or possession of a drug as a juvenile

2. Any illegal use or possession of a drug that does not meet the criteria of the automatic disqualifiers specified above (e.g., cocaine use longer than three years ago.)

3. Any illegal or unauthorized use of prescription medications

1000.4 SELECTION PROCESS

The Department shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department shall employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

(a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)

1. The personnel records of any applicant with prior peace officer experience in this state shall be requested from the appropriate law enforcement agency and reviewed prior to extending an offer of employment (Penal Code § 832.12).

2. This includes review of prior law enforcement employment information maintained by POST (Penal Code § 13510.9).

(b) Driving record

(c) Personal and professional reference checks

(d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.

(e) Information obtained from public internet sites

1. This review should include the identification of any activity that promotes or supports unlawful violence or unlawful bias against persons based on protected characteristics (e.g., race, ethnicity, national origin, religion, gender, gender identity, sexual orientation, disability).

(f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)

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(g) Local, state, and federal criminal history record checks (Government Code § 1030; Penal Code § 11105.002; Penal Code § 11105.05)

(h) Lie detector test (when legally permissible) (Labor Code § 432.2)

(i) Medical and psychological examination (may only be given after a conditional offer of employment)

1. The Medical Suitability Declaration (POST form 2-363) provided by the evaluating physician shall be maintained in the candidate's background investigation file (11 CCR 1954).

2. The Psychological Suitability Declaration (POST form 2-364) provided by the evaluator shall be maintained in the candidate's background investigation file (11 CCR 1955).

(j) Review board or selection committee assessment

(k) Relevant national and state decertification records, if available, including the National Decertification Index

1000.5 PROBATIONARY PERIODS

The Support Services Division Commander should coordinate with the Name of your jurisdiction: Personnel Department to identify positions subject to probationary periods and procedures for:

(a) Appraising performance during probation.

(b) Assessing the level of performance required to complete probation.

(c) Extending probation.

(d) Documenting successful or unsuccessful completion of probation.

1000.6 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate’s unsuitability to perform duties relevant to the operation of the Newport Beach Police Department (11 CCR 1953).

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

1000.6.1 INVESTIGATOR TRAINING

Background investigators shall complete POST-certified background investigation training prior to conducting investigations (11 CCR 1953; 11 CCR 1959).

1000.6.2 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 Newport Beach Police Department, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

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1000.6.3 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).

1000.6.4 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).

1000.6.5 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 Support Services Division Commander should not require candidates to provide passwords, account information, or access to password-protected social media accounts.

The Support Services Division Commander should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches, and/or review information from social media sites to ensure that:

(a) The legal rights of candidates are protected.

(b) Material and information to be considered are verified, accurate, and validated.

(c) The Department fully complies with applicable privacy protections and local, state, and federal law.

Regardless of whether a third party is used, the Support Services Division Commander should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

1000.6.6 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).

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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 to the Support Services 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).

1000.6.7 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 a for a minimum of four years after separation from the Department.

(b) Reports and documentation for candidates not hired by the Department for a minimum of four years.

1000.6.8 CONFIDENTIAL POST RECORDS

Records released to the Department from POST that were previously withheld from the candidate by POST shall be kept confidential as provided in Penal Code § 13510.9.

1000.7 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

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A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

1000.8 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; Penal Code § 13510.1; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Personnel Department should maintain and periodically review validated standards for all positions.

1000.8.1 STANDARDS FOR OFFICERS

Candidates shall meet the minimum standards established by POST or required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

(a) Free of any felony convictions

(b) Be legally authorized to work in the United States under federal law

(c) At least 21 years of age except as provided by Government Code § 1031.4

(d) Fingerprinted for local, state, and national fingerprint check (Government Code § 1030; Penal Code § 11105.002; Penal Code § 11105.05)

(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)

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(j) POST certification that has not been revoked, denied, or voluntarily surrendered pursuant to Penal Code § 13510.8(f)

(k) Not identified in the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training or similar federal government database that reflects revoked certification for misconduct or reflects misconduct that would result in a revoked certification in California.

In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the Department (Penal Code § 13510(d)).

1000.8.2 STANDARDS FOR DISPATCHER

Candidates shall satisfy the POST selection requirements, including (11 CCR 1956):

(a) A verbal, reasoning, memory, and perceptual abilities assessment (11 CCR 1957)

(b) An oral communication assessment (11 CCR 1958)

(c) A medical evaluation (11 CCR 1960)

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Supervisory Policy

1001.1 PURPOSE AND SCOPE

Every employee has a responsibility to strive for achievement of the goals of the department and the City. Supervisory employees have the additional responsibility and concomitant authority to ensure that employees are aware of those goals and have the necessary skills, training, and desire to achieve them.

1001.2 POLICY

Supervisors must present to their subordinates the aims and objectives of the Department. Department policies, procedures, and memoranda shall be presented to the employee by means of careful and considered explanation. Supervisors should guide employees by sound logic and clear thinking, rather than by arbitrary orders and command. They should strive for willing and cooperative response from all subordinates.

Supervisors shall exercise that control over subordinates necessary to the accomplishment of department objectives. They shall analyze and evaluate the personality, temperament traits and capabilities of each subordinate in order to realize from each employee the maximum degree of service commensurate with that employee's abilities.

Supervisory reports shall be made in a prompt and effective manner. All pertinent facts shall be incorporated, and the welfare of the Department shall be of primary consideration. Supervisors shall reflect the feelings of subordinates to supervisors by permitting information to flow up as well as down the channels of authority.

Supervisors have professional and ethical responsibilities relative to the conduct of subordinates and other members of the Department. These responsibilities extend to off as well as on-duty conduct. Supervisors who observe or are made aware of misconduct or conduct, which potentially could reflect unfavorably on the Department, shall initiate appropriate supervisory action.

Training shall be considered the process of aiding employees to gain effectiveness in their present or future assignments through the development of appropriate habits of thought, action, skill, knowledge, and attitude. Emphasis shall be placed on respect for the personality, and human dignity of each employee in order to allow maximum development of natural capacity.

Supervisors shall take a personal interest in the welfare and problems of subordinates and shall make themselves available to employees seeking guidance and counseling. They shall give appropriate advice and personal instructions to immediate subordinates for the development of administrative and supervisory skills.

Supervisors shall be aware that recognition of good work is an indispensable need in the employee's relationship with the Department and shall make certain those meritorious acts and accomplishments are rewarded either by personal encouragement and praise, or by formal report.

Supervisors may use positive and negative disciplinary procedures, as appropriate given the circumstances.

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Supervisory Policy

A supervisor shall be responsible for the appraisal and analysis of the work accomplishments of subordinates coming within the scope of supervision. Such evaluation shall be based on continuous observation and inspection, and shall consider personal traits as well as duty requirements.

A supervisor shall be responsible for the performance of general supervisory duties and in addition shall have the technical skills and knowledge necessary to supervise the satisfactory performance of the duties peculiar to specific assignments.

A supervisor shall initiate or receive and consider proposals for changes in policy and procedure affecting activities within the scope of his/her assignment.

A supervisor shall become familiar with the contents of department manuals, training bulletins, directives, and notices. He/she shall disseminate such information to subordinates in a manner designed to achieve departmental objectives.

Supervisors shall organize their own work and that of subordinates to ensure the adoption and practice of the best principles and procedures to meet current, unusual, and changing conditions.

Supervisors shall acquaint themselves with the duties and responsibilities of other supervisory positions which, in the normal course of operation, they may have to assume.

Supervisors may delegate to subordinates appropriate portions of their responsibilities, together with equivalent authority. They may not, however, delegate or relinquish overall responsibility for performance results nor any portion of their accountability.

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Evaluation of Employees

1002.1 PURPOSE AND SCOPE

The Department's employee performance evaluation system is designed to record work performance for both the Department and the employee, providing recognition for good work and developing a guide for improvement.

1002.2 POLICY

The Newport Beach Police Department utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, demotion, and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee’s position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

1002.3 EVALUATION PROCESS

Evaluation reports will cover a specific period of time and should be based on documented performance during that period. Evaluation reports will be completed by each employee’s immediate supervisor. Other supervisors directly familiar with the employee’s performance during the rating period should be consulted by the immediate supervisor for their input.

All sworn and civilian supervisory personnel shall attend an approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment.

Each supervisor should discuss the tasks of the position, standards of performance expected and the evaluation criteria with each employee at the beginning of the rating period. Supervisors should document this discussion in the prescribed manner.

Assessment of an employee’s job performance is an ongoing process. Continued coaching and feedback provides supervisors and employees with opportunities to correct performance issues as they arise.

Non-probationary employees demonstrating substandard performance shall be notified in writing of such performance as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity, with the goal being a minimum of 90 days written notice prior to the end of the evaluation period.

Employees who disagree with their evaluation and who desire to provide a formal response or a rebuttal may do so in writing in the prescribed format and time period.

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1002.3.1 RESERVE OFFICER EVALUATIONS
Reserve officer evaluations are covered under the Reserve Officers Policy.

1002.4 FULL TIME PROBATIONARY PERSONNEL

Civilian personnel are on probation for 12 months before being eligible for certification as permanent employees. An evaluation is completed monthly for all full-time civilian personnel during the probationary period.

Sworn personnel are on probation for 12 months before being eligible for certification as permanent employees. Probationary officers are evaluated daily, weekly and monthly during the probationary period.

1002.5 FULL-TIME PERMANENT STATUS PERSONNEL

Permanent employees are subject to three types of performance evaluations:

Regular - An Employee Performance Evaluation shall be completed once each year by the employee's immediate supervisor on the anniversary of the employee's date of hire except for employees who have been promoted in which case an Employee Performance Evaluation shall be completed on the anniversary of the employee's date of last promotion.

Transfer - If an employee is transferred from one assignment to another in the middle of an evaluation period and less than six months have transpired since the transfer, then an evaluation shall be completed by the current supervisor with input from the previous supervisor.

Special - A special evaluation may be completed any time the rater and the rater's supervisor feel one is necessary due to employee performance that is deemed less than standard. Generally, the special evaluation will be the tool used to demonstrate those areas of performance deemed less than standard when follow-up action is planned (action plan, remedial training, retraining, etc.). The evaluation form and the attached documentation shall be submitted as one package.

1002.5.1 RATINGS
When completing the Employee Performance Evaluation, the rater will place a check mark in the column that best describes the employee's performance. The definition of each rating category is as follows:

Outstanding - Is actual performance well beyond that required for the position. It is exceptional performance, definitely superior or extraordinary.

Exceeds Standards - Represents performance that is better than expected of a fully competent employee. It is superior to what is expected, but is not of such rare nature to warrant outstanding.

Meets Standards - Is the performance of a fully competent employee. It means satisfactory performance that meets the standards required of the position.

Needs Improvement - Is a level of performance less than that expected of a fully competent employee and less than standards required of the position. A needs improvement rating must be thoroughly discussed with the employee.

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Unsatisfactory - Performance is inferior to the standards required of the position. It is very inadequate or undesirable performance that cannot be tolerated.

Space for written comments is provided at the end of the evaluation in the rater comments section. This section allows the rater to document the employee's strengths, weaknesses, and suggestions for improvement. Any rating under any job dimension marked unsatisfactory or outstanding shall be substantiated in the rater comments section.

1002.6 EVALUATION INTERVIEW

When the supervisor has completed the preliminary evaluation, arrangements shall be made for a private discussion of the evaluation with the employee. The supervisor should discuss the results of the just completed rating period and clarify any questions the employee may have. If the employee has valid and reasonable protests of any of the ratings, the supervisor may make appropriate changes to the evaluation. Areas needing improvement and goals for reaching the expected level of performance should be identified and discussed. The supervisor should also provide relevant counseling regarding advancement, specialty positions and training opportunities. The supervisor and employee will sign and date the evaluation. Permanent employees may also write comments in the Employee Comments section of the performance evaluation report.

1002.6.1 CRITICAL POLICY REVIEW

Supervisors shall review specified critical and pertinent department policies with an employee when presenting an annual Employee Performance Evaluation. The divisional administrative technician shall provide copies of the specified policies to the concerned employee at the same time the supervisor is notified that an annual evaluation is due. The employee shall review the policies prior to the meeting.

The supervisor shall discuss the policies with the employee during the meeting, answer any questions the employee may have, or make arrangements to respond to the question after necessary research. The evaluating supervisor shall note in the narrative section of the evaluation which policies were reviewed in the meeting. Additionally, the evaluating supervisor shall include the following sentence, which shall be initialed by the employee, in the narrative section of the evaluation: "I have received, read, and understand the listed critical policies."

The following policies shall be defined as "critical" and reviewed annually. Other policies for review may be specified by the department / division, depending upon need and identified training issues.

All Employees:

Discrimination and Sexual Harassment

Computer Use and E-Mail Policy

Sworn Employees:

Pursuits

Use of Force

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Custody Officers:

Use of Force

1002.7 EMPLOYEE RESPONSE

The Employee shall have an opportunity to read and review his/her performance evaluation form and offer comments on the ratings or the overall evaluation prior to Supervisor execution and approval. The Department Director shall give the Employee a copy of the final personnel evaluation no later than five (5) working days after approval by the Supervisor. The Employee shall have the right to prepare a written response to the Performance Evaluation and request that the response be attached to the Performance Evaluation Form for inclusion in the Employee's personnel file. The response and request to attach must be provided to the Department Director no less than thirty (30) Days after receipt of the Performance Evaluation. The failure of an Employee to sign or respond to a Performance Evaluation Form shall not have a bearing on the approval or validity of the form or the performance evaluation.

1002.8 EVALUATION DISTRIBUTION

The original performance evaluation shall be maintained in the employee's personnel file in the office of the Chief of Police for the tenure of the employee's employment. A copy will be given to the employee and a copy will be forwarded to City Personnel Department.

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Mandatory Overtime

1003.1 PURPOSE AND SCOPE

This purpose of this policy is to establish a mandatory overtime policy, define the situations when mandatory overtime can be imposed and guidelines and procedures for mandating overtime consistent with this policy. This policy applies to all employees of the Newport Beach Police Department who are eligible for overtime compensation.

1003.1.1 DEFINITIONS

Definitions related to this policy include:

Mandatory Overtime – Involuntary work time assigned to an employee beyond their regularly scheduled work hours that have been determined to be necessary in accordance with this policy.

Time in Grade Seniority – Seniority determined by the date an employee was appointed to their current classification and used for shift and vacation picks

1003.2 POLICY

It is the policy of the Newport Beach Police Department that mandatory overtime assignments may be used to ensure that events and activities are adequately staffed with the appropriate classification and number of employees to ensure the Department's public safety mission is not unnecessarily compromised.This policy is not intended to address shift staffing shortages in routine day-to-day Patrol operations.

1003.3 SITUATIONS REQUIRING MANDATORY OVERTIME

Situations where mandatory overtime may be required of employees include but are not limited to:

1. Permitted City events that require police staffing (ex. 5Ks, Triathlons, Car Shows)
2. Dignitary visits that require police staffing
3. Planned demonstrations that are deemed to require police staffing by the Patrol/Traffic Division Commander
4. Any time period in which the City has established a "Safety Enhancement Zone" as defined in Chapter 1.04 of the Newport Beach Municipal Code
5. Any other situation that the Chief of Police has determined mandatory overtime is necessary

1003.4 PROCEDURES

A mandatory overtime list shall be maintained by the Special Events Sergeant for each classification that may be subject to mandatory overtime assignments, except as detailed in §1003.5 of this policy. Initially, employees will be listed from the least time in grade seniority to most time in grade seniority and the list will be adjusted each time mandatory overtime is assigned consistent with the procedures below.

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If there are insufficient volunteers to staff an event or activity where it has been determined a minimum number of employees is required, mandatory overtime will be assigned in the following manner:

1. Mandatory overtime will be assigned to employees using reverse time in grade seniority, with junior (least senior) employees in the classification assigned first.
    (a) Seniority will be determined consistent with shift pick guidelines
2. Availability within each classification (Police Officer, Police Sergeant, Police Lieutenant, etc.) will be determined by regular days off, the end time of the mandatory overtime assignment and the start time of an employees' next scheduled work shift. Determination of availability for mandatory overtime shall be consistent with the limitations on hours worked detailed in §1032.7 of the Newport Beach Police Department Policy Manual
3. Employees assigned mandatory overtime will be notified 72 hours before the assignment where practicable
4. Once an employee has completed a mandatory overtime assignment, that employee will be moved to the bottom of the mandatory overtime list

Employees assigned to work mandatory overtime are responsible for working that assignment or securing another employee in the same classification who is willing to work the assignment. The employee originally assigned to mandatory overtime is responsible for notifying the Special Events Sergeant if they have found another employee willing to fulfill the assignment. Even if another employee willingly fulfills the assignment, the originally assigned employee will receive credit for the assignment and will be moved to the bottom of the mandatory overtime list.

1003.5 EXCEPTIONS

1. Approved annual vacations: Employees who have scheduled and received approval for their two annual vacation slots per year are exempt from mandatory overtime during their approved vacation periods
2. Injured On Duty (IOD)/Modified Duty: Employees who are in IOD status or assigned to a modified/light duty assignment are exempt from mandatory overtime during the duration of that assignment
3. Communications is authorized to continue using the mandatory overtime procedures established prior to creation of this policy
4. Other work units with minimum staffing requirements may maintain their own mandatory overtime lists within the procedures detailed in this policy

1003.6 EXEMPTION REQUESTS

Employees may request exemption from a mandatory overtime assignment on a case-by-case basis by submitting a written memo to the Patrol/Traffic Division Commander providing justification why they should be skipped. Employees should submit documentation such as airline tickets, travel reservations, funeral notifications or any other material that supports the employees request. If the request to be skipped for mandatory overtime is granted, the employee will be placed at the

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top of the mandatory overtime list (they will be "up next"). Employees are encouraged to work with their partners to cover a mandatory assignment before requesting exemption.

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Special Assignments and Promotions

1004.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making special assignments within the Newport Beach Police Department.

1004.2 PROMOTIONAL REQUIREMENTS

Requirements and information regarding any promotional process are available at the Newport Beach Police Department Personnel Department.

1004.3 ASSIGNMENT, TRANSFER AND ROTATION POLICY - COMMUNITY SERVICES OFFICER

1004.3.1 PURPOSE

This policy provides for civilian career diversity and enhancement through the ability to transfer among positions without loss of pay or seniority. It allows employees to develop greater skills and a broader understanding of Department operations and community needs, while improving recruitment, processing and hiring procedures by reducing the number of tests necessary. At the same time, Department management will maintain the necessary flexibility in the deployment of human resources. The policy has been further revised in order to clarify existing practice, provide additional options to those affected, and the potential for additional compensation for the Community Services Officers who remain in selected assignments.

1004.3.2 APPLICABILITY

The assignment, transfer and rotation policy applies to all Department members with an employment classification of full-time Community Services Officer (CSO).

NOTE: Special provisions are made for Community Services Officers hired on or before November 1, 1991. Those employees were originally classified as Records Specialist, Community Services Officer (Front Desk Officer), Parking Control Officer and Secretary.

1004.3.3 DEFINITIONS

Transfer - The assignment from one position to another without loss of pay or seniority. Seniority is defined within classification, not within any particular assignment within the classification. A transfer requires a vacancy and approval by command staff.

Voluntary Transfer - A transfer that occurs when an opening is available and requires a request for transfer by the employee.

Involuntary Transfer - A transfer made as a result of completion of an assignment subject to rotation, or as a result of performance deficiency, or to meet the needs of the Department.

Personnel Pools - Assignments from which staffing for specialty positions can be drawn, and to where employees can be assigned on a voluntary or involuntary basis. Personnel pools included:

- Records Section

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- Parking Control Section

Specialty Assignments - Assignments that require a request for transfer upon a vacancy or those resulting from an involuntary transfer. Assignments include:

- Alarm Officer
- Detective Division Administrative Technician
- Front Desk Officer
- Patrol/Traffic Division Administrative Technician
- Payroll Clerk
- Planning and Research Officer
- Support Services Division Administrative Technician
- Other assignments the Department designates

1004.3.4 SPECIALTY ASSIGNMENTS SUBJECT TO ROTATION

Specialty Assignment terms are generally three years but may be extended to five years from the date of assignment at the discretion of the Department and if the employee has continued to perform at satisfactory levels. In some circumstances and at the discretion of the Department, extensions beyond the maximum term may be necessary. The Department will first consider organizational needs, then the interest expressed in the position by others, and finally the preferences of the incumbent. Specialty Assignments subject to rotation include:

- Alarm Officer
- Front Desk Officer
- Planning and Research Officer
- Other assignments the Department designates

Divisional Administrative Technicians and the Payroll Clerk are not subject to mandatory rotation. All full-time Community Services Officers are subject to transfer at any time as a result of performance deficiency or to meet the needs of the department.

1004.3.5 GENERAL PROCEDURES

Initial Assignment of Newly-Hired CSO's

A newly hired Community Services Officer may initially be assigned to any open Specialty or Pool position depending on the needs of the Department. However, newly hired Community Services Officers will usually be assigned to one of the Pool Assignments in the Records Section or Parking Control Section, again depending upon the needs of the Department and the qualifications of the employee.

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Newly hired CSO's assigned directly to a Specialty Assignment are subject to the term provisions of this policy. Upon completion of the specialty assignment term, he or she would be subject to rotation to a Pool Assignment or to some other specialty for which they may be eligible.

Transfer Requests

It is the Department's goal to provide the opportunity for as many different Community Services Officers as possible to work Specialty Assignments.

When an opening in a Specialty Assignment occurs, a notice will be distributed to all full-time Community Services Officers. Any interested Community Services Officer shall be encouraged to submit a request for transfer to that Specialty Assignment. The Department prefers to make selections for Specialty Assignments from a pool of qualified candidates.

Upon completion of Rotational Specialty Assignment, Community Services Officers will usually return to one of the Pool Assignments; however, they may request a transfer from one Specialty Assignment to another, without doing so depending upon the needs of the Department and the qualifications of the employee. Community Services Officers who have completed their assignment are eligible to re-apply for that same Specialty Assignment; however, assuming there is a pool of qualified candidates from which to choose a replacement, the Department's decision will be consistent with the stated goal outlined in this section. In the event the Department selects the incumbent for the position, that Community Services Officer would be eligible to serve another full term in that Specialty Assignment.

Community Services Officers may always request a transfer from a Specialty Assignment to a Pool Assignment. Such requests are subject to Department approval.

Probationary Community Services Officer

Probationary Community Services Officers are eligible to request a transfer to Specialty Assignments; however, generally, the Department and the individual would be better served by completing their probationary period before transferring to a new assignment.

Community Services Officers Hired Prior to November 2, 1991

Community Services Officers hired prior to November 2, 1991 were originally classified as Records Specialists, Community Services Officers (Front Desk Officers), Parking Control Officers and Divisional Secretaries. As a result, these CSO' may retain their original positions and are not subject to involuntary transfer.

These Community Services Officers may request a transfer to any vacant specialty position. Upon completion of a Specialty Assignment term, the CSO may return to his or her original assignment if that position is available. If the position is not available, the affected employee is eligible for the next opening in the original assignment.

For example, an individual hired as a Parking Control Officer in 1990 may retain the position in the Parking Control Section until he or she leaves employment. The employee may also request

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a transfer to the Front Desk Specialty Assignment. Upon completion of the Front Desk Specialty Assignment, the employee is entitled to the first available opening in the Parking Control Section.

1004.4 PREFERRED ASSIGNMENT STATUS

1004.4.1 PURPOSE

The purpose of this section is to formalize a process to give individual recognition to eligible Senior Officers, Sergeants, Community Service Officers, Senior Community Service Officers, and Civilian Supervisors for their many years of service, dedication and loyalty to the Newport Beach Police Department, as well as to recognize the cumulative hardships imposed by the requirements of the occupation.

1004.4.2 ELIGIBILITY

Any Police Officer, Community Service Officer, Senior Community Service Officer, Civilian Supervisor or Sergeant who meets certain criteria may request to be considered for "Preferred Assignment Status". At the time of their request for consideration, the employee, must meet all of the following criteria:

- Minimum age of 47; and
- 10 or more years of law enforcement service at the Newport Beach Police Department; and
- Eligibility to retire on a specified date within the next three (3) years; and
- Job performance in present assignment must have a history of "meets job requirements" ratings or above; and
- Recommended for consideration by supervisory and/or management staff.

1004.4.3 BENEFITS

A Community Services Officer, Senior Community Services Officer, Civilian Supervisor, Police Officer or Sergeant in a Patrol or other Specialty Assignment may request to stay on a specific shift or in their current assignment until they reach their retirement.

1004.4.4 PROCEDURE

An employee must request Preferred Assignment Status in writing to the Chief of Police through the chain of command. The request must specify a retirement date and include a written recommendation by the employee's immediate supervisor. Only the Chief of Police may grant Preferred Assignment Status to an employee.

The Chief of Police may deny the request for consideration for someone who does not meet the established criteria or for any other reason the Chief of Police may deem appropriate, such as staffing shortages, expertise required, etc.

The Chief of Police may revoke the Preferred Assignment Status of an employee whose performance level falls below the "competent" standard, if the individual does not retire by the

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date specified in their request for Preferred Assignment Status, or for any other reason the Chief of Police may deem appropriate. All decisions by the Chief of Police are final.

Any employee granted Preferred Assignment Status who becomes aware of a change in circumstances affecting their specified retirement date shall immediately inform the Chief of Police.

1004.5 TRANSFER, ROTATION, AND REASSIGNMENT POLICY - SWORN PERSONNEL

1004.5.1 PURPOSE

This policy outlines the transfer, rotation, and reassignment of sworn personnel to and from Specialty Assignments as defined by this section.

1004.5.2 APPLICABILITY

All movement to and from a Specialty Assignment shall be subject to these guidelines and are subject to the Preferred Assignment Status Policy (NBPD Manual Section 1004.6).

1004.5.3 DEFINITIONS

Reassignment - Is the movement within a Division and is at the discretion of the Division Commander

Seniority - Is defined within classification, not within any particular assignment within the classification

Transfer - Is defined as movement from one Division to another. Patrol shall be considered one Division with the exception of those Officers in a Specialty Assignment, such as PET, K-9, etc. A transfer requires approval by the Chief of Police

Voluntary Transfer - A transfer that occurs when a Specialty Assignment opening is available and requires a request for transfer by the employee

- Request for Transfer
    - Except as provided herein, any sworn employee may request a transfer to a Specialty Assignment opening within the same job classification
    - An applicant selected for voluntary transfer and the Command Officer making the selection shall abide by all transfer, rotation, and reassignment policy guidelines
- Selection Procedure
    - Specialty Assignment announcements shall be posted at least seven days prior to the beginning of the selection process. The job announcement shall be publicized throughout the Department
    - The Specialty Assignment announcement may include, but is not limited to: scheduling and/or shift requirements, minimum qualifications for the position, prerequisites of the position, and the date that the Resume, Cover Letter, or other qualifying material shall be turned in
    - Resume and a cover letter submitted by the applicant to indicate interest

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- Review of candidate's personnel package, work performance and submitted materials by the unit supervisor(s)
- Oral Board Interview - The panel should include the unit lieutenant, unit sergeant, and a supervisor/lieutenant from another division
- Decision by the unit lieutenant - affirmed at the weekly Staff Meeting
- Decision for the position based on candidate's demonstrated performance in interview, performance in current and previous assignments, experience, and on the "best person" for the position objective
- Notification to candidates by unit lieutenant with constructive feedback

Involuntary Transfer - A transfer made as a result of completion of an assignment subject to rotation, or as a result of performance deficiency, or to meet the needs of the Department

- Involuntary transfers shall be made at the discretion of the Chief of Police
- Every effort will be made to provide the affected sworn employee with a minimum of one pay period notification prior to being involuntarily transferred

Specialty Assignments - Assignments outside of a *Regular Patrol* duty assignment. Assignments include:

Patrol Division

- Homeless Liaison Officer (HLO)
- K-9 Unit
- Peninsula Enforcement Team (PET): One year with one-year extensions (three years maximum)

Traffic Division

- Motorcycle Officer
- Traffic Investigator

Detective Division

- Crimes Against Persons (CAP) Unit
- Crime Suppression Unit (CSU)
- Property Crimes Section
- School Resource Unit
- Special Investigations Unit
- Special Victims Unit
- Task Force Assignments

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1004.5.4 SPECIALTY ASSIGNMENT DURATION

Specialty Assignment durations vary from one to three years and in some cases can be extended up to seven years. The start date for the purpose of determining the maximum time allowed in a particular Specialty Assignment does not reset upon transfer or reassignment to a different Specialty Assignment. Upon reaching the maximum duration allowed for a Specialty Assignment, a return to a Regular Patrol duty assignment for one full Deployment Cycle is required before starting another Specialty Assignment. An extension beyond the maximum duration may be granted by the Chief of Police based on the needs of the Department or under NBPD Manual Section 1004.6. The Department reserves the right to end any Specialty Assignment if performance does not meet standards or based on the needs of the Department. The following are the durations for each Specialty Assignment:

Patrol Division

- Homeless Liaison Officer (HLO): Three years with one-year extensions (five years maximum)
- K-9 Unit: Service life of the assigned Police Service Dog (PSD)
- Peninsula Enforcement Team (PET): One year with one-year extensions (three years maximum)

Traffic Division

- Motorcycle Officer: Three years with one-year extensions (five years maximum)
- Traffic Investigator: Three years with one-year extensions (seven years maximum)

Detective Division

- Crimes Against Persons (CAP) Unit: Three years with one-year extensions (seven years maximum)
- Crime Suppression Unit (CSU): Two years with a one-year extension (three years maximum)
- Property Crimes Section: Three years with one-year extensions (five years maximum)
- School Resource Unit: Three years with one-year extensions (five year maximum)
- Special Investigations Unit: Three years with one-year extensions (seven years maximum)
- Special Victims Unit: Three years with one-year extensions (seven years maximum)
- Task Force Assignment durations vary according to Memorandum of Understanding (MOU) commitments

1004.5.5 MANAGEMENT / SUPERVISORY ROTATION GUIDELINES

The Chief of Police will make all Management and Supervisory Specialty Assignment appointments, which will typically be three years in duration.

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1004.6 POLICY

The Newport Beach Police Department determines assignments and promotions in a non-discriminatory manner based upon job-related factors and candidate skills and qualifications. Assignments and promotions are made by the Chief of Police.

1004.7 SPECIAL ASSIGNMENT POSITIONS

The following positions are considered special assignments and not promotions:

(a) Crisis Response Team member

(b) Investigator

(c) Motorcycle officer

(d) Bicycle Patrol officer

(e) Canine handler

(f) Collision investigator

(g) Field Training Officer

(h) School Resource and/or Drug Abuse Resistance Education (D.A.R.E.) officer

1004.7.1 GENERAL REQUIREMENTS

The following requirements should be considered when selecting a candidate for a special assignment:

(a) Three years of relevant experience

(b) Off probation

(c) Possession of or ability to obtain any certification required by POST or law

(d) Exceptional skills, experience, or abilities related to the special assignment

1004.7.2 EVALUATION CRITERIA

The following criteria will be used in evaluating candidates for a special assignment:

(a) Presents a professional, neat appearance.

(b) Maintains a physical condition that aids in his/her performance.

(c) Expressed an interest in the assignment.

(d) Demonstrates the following traits:

1. Emotional stability and maturity
2. Stress tolerance
3. Sound judgment and decision-making
4. Personal integrity and ethical conduct
5. Leadership skills
6. Initiative

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7. Adaptability and flexibility
8. Ability to conform to department goals and objectives in a positive manner

1004.7.3 SELECTION PROCESS

The selection process for special assignments will include an administrative evaluation as determined by the Chief of Police to include:

(a) Supervisor recommendations - Each supervisor who has supervised or otherwise been involved with the candidate will submit a recommendation.
    1. The supervisor recommendations will be submitted to the Division Commander for whom the candidate will work.
(b) Division Commander interview - The Division Commander will schedule interviews with each candidate.
    1. Based on supervisor recommendations and those of the Division Commander after the interview, the Division Commander will submit his/her recommendations to the Chief of Police.
(c) Assignment by the Chief of Police.

The selection process for all special assignment positions may be waived for temporary assignments, emergency situations, training, and at the discretion of the Chief of Police.

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Grievance Procedure

1006.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the Newport Beach Police Department grievance system. The grievance system is intended to facilitate communication and to promptly and equitably address employee grievances in the workplace.

1006.1.1 GRIEVANCE DEFINED

The term "grievance" means a dispute between an NBPA (Newport Beach Police Association), NBPMA (Newport Beach Police Management Association) or any other member and the City regarding the interpretation or application of rules or regulations governing the terms and conditions of employment, any provision of the Employee Policy Manual, any provision of Resolution No. 2001-50, or the NBPA / NBPMA MOU.

The guidelines and procedures for grievances are outlined in the respective NBPA / NBPMA MOU's.

Grievances may be brought by an individual affected employee or by a group representative.

Specifically outside the category of grievance are complaints related to allegations of discrimination or harassment subject to the Discriminatory Harassment Policy. Also outside the category of grievances are personnel complaints regarding any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state, or local law as set forth in the Personnel Complaint Policy.

1006.2 POLICY

It is the policy of the Newport Beach Police Department to provide a just and equitable system for the prompt handling of employee grievances without discrimination, coercion, restraint, or retaliation against any employee who submits or is otherwise involved in a grievance.

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Reporting of Employee Convictions

1010.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the notification requirements and procedures that members must follow when certain arrests, convictions, and court orders restrict their ability to perform the official duties and responsibilities of the Newport Beach Police Department. This policy will also describe the notification requirements and procedures that certain retired officers must follow when an arrest, conviction, or court order disqualifies them from possessing a firearm.

1010.1.1 REPORTING PROCEDURE

Employees and all retired officers with a CCW endorsement shall immediately contact the on-duty Watch Commander, who shall ensure that an appropriate investigation is conducted. Any mandatory notification concerning any matter which may subject the employee to criminal liability shall be considered compelled. The employee shall follow the directions of the Watch Commander or, if not so directed, comply with specific procedures in applicable sections of the Department Manual. When the employee is unable to personally make the required notification, the employee shall cause such notification to be made at the earliest opportunity.

Employees subject to the following sections may be disciplined including, but not limited to, being placed on administrative leave, reassignment and/or termination. Retired officers may have their CCW privilege revoked or denied.

Any employee failing to make immediate notification pursuant to this policy shall be subject to discipline.

1010.2 DOMESTIC VIOLENCE CONVICTIONS AND COURT ORDERS

Federal and California law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing firearms. Such convictions and court orders often involve allegations of the use or attempted use of force, or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All members and retired officers with identification cards issued by the Department are responsible for ensuring that they have not been disqualified from possessing firearms by any such conviction or court order, and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

1010.3 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty, or nolo 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.

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Outstanding warrants as provided in Penal Code § 29805 also place restrictions on a member's ability to possess a firearm.

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, and shall be reported as provided in this policy.

1010.4 POLICY

The Newport Beach Police Department requires disclosure of member arrests, convictions, and certain court orders to maintain the high standards, ethics, and integrity in its workforce, and to ensure compatibility with the duties and responsibilities of the Department.

1010.5 NOTIFICATION REQUIREMENTS

The Professional Standards Unit shall submit within 10 days of final disposition a notice to POST of a conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR 1003).

1010.6 OTHER MANDATORY REPORTING

Off Duty Physical Altercations

Any employee involved in a physical altercation within the city, while off duty, shall report the incident without unnecessary delay. The Watch Commander, upon learning of an employee involved altercation, shall ensure the incident is investigated.

Employee Arrested or Identified as Suspect

Any employee who is arrested, or becomes aware they are a suspect in a misdemeanor or felony investigation by another agency, shall make the required notification.

Employee Involved Shootings

Employees involved in a shooting (see 304.1.4 REPORT OF WEAPON DISCHARGE) shall make the required notification

Accidental Discharge of a Firearm

Employees involved in an accidental discharge of a firearm (see 304.1.4 REPORT OF WEAPON DISCHARGE) shall make the required notification

Legal Restrictions on Firearm Possession

Any employee who may have a legal restriction on the possession of a firearm per California Penal Code Section 12021, 12021.1 or any other section that restricts firearm possession shall immediately make the required notification. Such restrictions may result from a variety of events, past or present, including but not limited to:

- Conviction of a felony or any crime of violence, including misdemeanor assault or battery

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- Involuntary commitment for mental evaluation per 5150, 5250 or 5350 Welfare and Institutions Code
- A restriction on firearm possession as a condition of probation for any offense

Drivers License Restriction

Any employee who may drive any city vehicle who is aware of any restriction on their driving privilege shall make notification. Such restrictions include but are not limited to:

- Suspensions
- Revocations
- Time or activity related restrictions

Employees need not make notification for restrictions that are medical in nature unless the employee desires or requires a reasonable accommodation for the condition to perform essential job functions

Other Circumstances or Legal Processes

Employees shall make notification of any circumstances or legal processes that may conflict with or interfere with the performance of their duties or ability to meet any legal requirement for their position. Such circumstances may include, but are not limited to:

Ingestion of medication that is likely to impair an employee's ability to safely carry out job functions or that is likely to lead to a direct threat to the safety of another while the employee is on duty.

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Drug- and Alcohol-Free Workplace

1012.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103).

1012.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

1012.2.1 PURCHASE OR POSSESSION OF DRUGS OR ALCOHOL ON-DUTY

Department employees shall not purchase or possess alcohol or other controlled substances on City property, at work, or while on-duty except in the performance of a special assignment as described in this policy.

Department employees shall not illegally manufacture any alcohol or drugs while on-duty, on City property or at any other time.

1012.2.2 USE OF PRESCRIBED MEDICATIONS

Any employee who is required to take any medication with side effects which might impair his/her ability to fully and safely perform all requirements of the position shall report the need for such medication to the immediate supervisor prior to commencing any on-duty status. No employee shall be permitted to work or drive a department-owned or department-leased vehicle while taking such potentially impairing medication without a written release from his/her physician.

1012.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Watch Commander or appropriate supervisor as soon as the member is aware that the member 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, the member shall be immediately removed and released from work (see the Work Restrictions section in this policy).

1012.3.1 CONFIDENTIALITY

The Department recognizes the confidentiality and privacy due employees, and disclosure of any information relating to chemical abuse treatment, except on a need to know basis, shall only be with the express written consent of the employee involved or pursuant to lawful process.

1012.3.2 MEDICAL CANNABIS

Use or being under the influence of medical cannabis on-duty is prohibited and may lead to disciplinary action.

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Sick Leave

1014.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the City personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 USC § 2601 et seq.), the California Family Rights Act, leave for victims of crime or abuse, or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Government Code § 12945.8; Labor Code § 1510).

1014.1.1 NOTIFICATION

Employees shall notify the Watch Commander or their immediate supervisor as soon as they are aware they will not be able to report to work due to personal or family illness. At a minimum, employees shall make such notification no less than one hour before the start of their scheduled shift. If an employee is unable to contact the supervisor in the case of an emergency, every effort should be made to have a representative contact the supervisor. The Watch Commander or immediate supervisor shall complete an absence from duty report.

When the necessity for leave is foreseeable, such as an expected birth or planned medical treatment, the employee shall, whenever possible, provide the Department with no less than 30-days notice of the intent to take leave.

An employee who is unable to report for duty because of personal or family illness shall include in the notification the address and phone number where he or she may be reached, if other than his or her residence. The employee shall remain at the location reported unless he or she first advises his/her immediate supervisor or the Watch Commander.

When an employee is unable to report for duty because of personal or family illness, the appropriate supervisor may call or visit the employee during the employee's scheduled duty shift.

1014.1.2 EXTENDED ILLNESS

Regular Full Time employees on extended absences shall, if possible, contact their unit supervisor at three-day intervals to provide an update on their absence and expected date of return. Regular Full Time employees absent from duty due to personal illness in excess of three consecutive days may be required to furnish a statement from their health care provider supporting the use of sick leave and/or the ability to return to work. In the event the Regular Full Time employee does not provide satisfactory evidence that he/she used Sick Leave in a manner consistent with this Manual, the absence shall be converted to Vacation Leave, other paid leave, or leave without pay at the discretion of the Regular Full Time employee.

Nothing in this section precludes a supervisor, with cause, from requiring a physician's statement if three or fewer sick days are taken.

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1014.1.3 SUPERVISOR RESPONSIBILITY
Supervisors should monitor sick leave usage and regularly review the attendance of employees under their command to ensure that the use of sick leave is consistent with this policy. Supervisors should address sick-leave use in the employee's performance evaluation when it has negatively affected the employee's performance or ability to complete assigned duties, and when unusual amounts of sick leave by the employee has had a negative impact on department operations. When appropriate, supervisors should counsel employees regarding the excessive use of sick leave and should consider referring the employee to the Employee Assistance Program.

1014.2 POLICY
It is the policy of the Newport Beach Police Department to provide eligible employees with a sick leave benefit.

1014.3 USE OF SICK LEAVE
Sick leave is intended to be used for qualified absences. Sick leave is not considered vacation. Abuse of sick leave may result in discipline, denial of sick leave benefits, or both.

Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational activity or other activity that may impede recovery from the injury or illness (see Outside Employment Policy).

Qualified appointments should be scheduled during a member’s non-working hours when it is reasonable to do so.

1014.3.1 NOTIFICATION
All members should notify the Watch Commander or appropriate supervisor as soon as they are aware that they will not be able to report to work and no less than one hour before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor (Labor Code § 246).

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the Department with no less than 30 days' notice of the impending absence (Labor Code § 246).

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

1014.4 FAMILY AND MEDICAL LEAVE
This Section briefly summarizes the relevant provisions of the City's Family and Medical Leave Policy, the full text of which is found in the Appendix of the City Employee Policy Manual. This Policy describes the rights of Employees eligible to take Family and Medical Leave and Pregnancy Disability Leave pursuant to current Federal or State law, the effect of taking Family and Medical Leave, medical certification requirements, and other relevant information. Employees shall be

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entitled to up to four (4) months of Family and Medical Leave to the extent provided, and consistent with the terms and conditions imposed by, State and Federal law. Family and Medical Leave includes leave related to the birth of a child, the placement of a child in connection with an adoption or foster care, or the serious health condition of the Employee, or the Employee's parent, child or spouse. An Employee may receive up to two (2) additional months leave due to the Employee's own serious health condition if the Employee provides the required medical certification, the Chief of Police is able reasonably to accommodate the absence and the City Manager approves the request.

1014.5 LEAVE OF ABSENCE WITHOUT PAY

An Employee may request a Leave of Absence Without Pay. The request shall indicate the length of the leave requested and if the Employee intends to pay premiums for benefit plans. The Chief of Police may approve or deny the request in his/her sole discretion. An Employee on leave of absence without pay shall not earn Flex leave, Vacation Leave, Sick Leave, holiday leave or other benefits. An Employee on Probation shall have his/her Probationary Period extended by the amount of time on leave of absence without pay. An Employee who fails to report to work on the first Workday after the leave of absence expires shall be considered to have resigned.

1014.6 SPECIAL PAID LEAVE

The City Manager may, with the concurrence of the Chief of Police, authorize a Regular Full Time Employee to take a special leave of absence with pay for a period not to exceed 180 Days upon a determination the leave will contribute to the Employee's effectiveness and be beneficial to the City.

1014.7 MILITARY LEAVE

All Employees are entitled to Military Leave to the extent required by, and subject to the terms and conditions imposed by, provisions of State and Federal law. Employees on a Military Leave of absence shall be entitled to the salary and benefits to the extent required by State law. Employees eligible for Military Leave shall, if reasonably possible, submit a copy of their military orders to the Chief of Police within twenty-four (24) hours after the Employee becomes aware of the orders and the need to request Military Leave.

1014.8 ADMINISTRATIVE LEAVE

The Chief of Police may grant Administrative Leave to Exempt Employees. Administrative Leave shall be granted on a case by case basis, shall not exceed eighty (80) hours per calendar year, and the amount of Administrative Leave granted to any Exempt Employee shall be reevaluated each fiscal year. Administrative Leave shall be utilized during the calendar year it is granted and may not be accumulated beyond the calendar year for which it was granted without the approval of the City Manager.

1014.9 VOTING LEAVE

Each Employee is encouraged to vote in all elections. Employees are encouraged to vote outside of their Workday. An Employee is encouraged to obtain and use an absentee ballot if he/she

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may not have time to vote outside of his/her Workday due to their schedule. Under special circumstances, a Regular Full Time Employee or Probationary Employee who does not have ample time to vote outside of his/her Workday may request approval from his/her Supervisor to take up to two (2) hours of leave with pay to vote.

1014.10 VACATION SCHEDULES

Vacation schedules shall be administered as follows:

- Vacations shall be selected on the basis of service seniority, according to rank
- Each division shall schedule vacations independently
- Vacation periods shall be set by division commanders prior to the beginning of each fiscal year
- Vacation periods shall be arranged so one period expires prior to the start of the following period
- An employee with 10 or more vacation days accrued may select two vacation periods
- An employee with less than 10 vacation days accrued may select one vacation period

VACATION PERIODS - NOTATION ON ARREST REPORTS AND CITATIONS

An officer shall, if known, indicate his/her vacation period on all arrest reports and citations whenever the vacation is to occur within three months of the date of the arrest or citation. The time span indicated shall include a seven day period both prior to and following the scheduled vacation period.

1014.11 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

(a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.

(b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the Personnel Department as appropriate.

(c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:

1. Negatively affected the member's performance or ability to complete assigned duties.
2. Negatively affected department operations.

(d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.

(e) Referring eligible members to an available employee assistance program when appropriate.

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1014.12 REQUIRED NOTICES

The Other: shall ensure:

(a) Written notice of the amount of paid sick leave available is provided to employees as provided in Labor Code § 246.

(b) A poster is displayed in a conspicuous place for employees to review that contains information on paid sick leave as provided in Labor Code § 247.

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Communicable Diseases

1016.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of Newport Beach Police Department employees contracting and/or spreading communicable diseases.

1016.1.1 DEFINITIONS

Definitions related to this policy include:

Communicable disease - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

Exposure - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to an employee's position at the Newport Beach Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

1016.2 POLICY

The Newport Beach Police Department is committed to providing a safe work environment for its employees. Employees should be aware that they are ultimately responsible for their own health and safety.

1016.3 EXPOSURE CONTROL OFFICER

The Chief of Police will assign a person as the Exposure Control Officer (ECO). The ECO shall develop an exposure control plan that includes:

(a) Identification of job roles and tasks with exposure risk.

(b) Exposure-prevention and decontamination procedures.

1. Availability and use of handwashing and hygiene facilities.
2. Cleaning and disinfecting contaminated surfaces and equipment.
3. Handling and labeling contaminated laundry.

(c) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.

(d) The provision that department members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.

(e) Evaluation of persons in custody for any exposure risk and measures to separate them (15 CCR 1051; 15 CCR 1207).

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(f) Compliance with all relevant laws or regulations related to communicable diseases, including:

1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).
2. Bloodborne pathogen mandates including (8 CCR 5193):
   (a) Sharps injury log.
   (b) Needleless systems and sharps injury protection.
3. Airborne transmissible disease mandates including (8 CCR 5199):
   (a) Engineering and work practice controls related to airborne transmissible diseases.
   (b) Distribution of appropriate personal protective equipment to minimize exposure to airborne disease.
4. Promptly notifying the county health officer regarding member exposures (Penal Code § 7510).
5. Establishing procedures to ensure that members request exposure notification from health facilities when transporting a person that may have a communicable disease and that the member is notified of any exposure as required by Health and Safety Code § 1797.188.
6. Informing members of the provisions of Health and Safety Code § 1797.188 (exposure to communicable diseases and notification).

(g) Provisions for acting as the designated officer liaison with health care facilities regarding communicable disease or condition exposure notification. The designated officer should coordinate with other department members to fulfill the role when not available. The designated officer shall ensure that the name, title, and telephone number of the designated officer is posted on the department website (Health and Safety Code § 1797.188).

The ECO should also act as the liaison with the Division of Occupational Safety and Health (Cal/OSHA) and may request voluntary compliance inspections. The ECO shall annually review and update the exposure control plan and review implementation of the plan (8 CCR 5193). The plan should be accessible to all members in digital or printed form.

1016.4 EXPOSURE PREVENTION AND MITIGATION

1016.4.1 GENERAL PRECAUTIONS

All employees are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes, but is not limited to (8 CCR 5193):

(a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or Department vehicles, as applicable.

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(b) Wearing Department approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.

(c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.

(d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.

(e) Using an appropriate barrier device when providing CPR.

(f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.

(g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.

1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/ decontaminated appropriately.

(h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.

(i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.

(j) Disposing of bio-hazardous waste appropriately or labeling bio-hazardous material properly when it is stored.

1016.4.2 IMMUNIZATIONS

Employees who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (8 CCR 5193).

1016.5 POST EXPOSURE

1016.5.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

(a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).

(b) Obtain medical attention as appropriate.

(c) Notify a supervisor as soon as practicable.

1016.5.2 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (8 CCR 5193):

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(a) Name and Social Security number of the employee exposed

(b) Date and time of the incident

(c) Location of the incident

(d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)

(e) Work being done during exposure

(f) How the incident occurred or was caused

(g) PPE in use at the time of the incident

(h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the employee that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see Work-Related Injury Reporting Policy).

1016.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Newport Beach Police Department employees shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary (8 CCR 5193).

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information:

(a) Whether the employee has been informed of the results of the evaluation.

(b) Whether the employee has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

1016.5.4 COUNSELING

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (8 CCR 5193).

1016.5.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed employee or when it is otherwise appropriate (8 CCR 5193). Source testing is the responsibility of the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed employee's supervisor to ensure testing is sought.

Source testing may be achieved by:

(a) Obtaining consent from the individual.

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(b) Complying with the statutory scheme of Health and Safety Code § 121060. This includes seeking consent from the person who was the source of the exposure and seeking a court order if consent is not given.

(c) Testing the exposed employee for evidence of a communicable disease and seeking consent from the source individual to either access existing blood samples for testing or for the source to submit to testing (Health and Safety Code § 120262).

(d) Taking reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status of the involved individuals to determine whether the County Health Officer will order testing (Penal Code § 7510).

(e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing a person when the exposed employee qualifies as a crime victim (Penal Code § 1524.1).

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the City Attorney to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

1016.6 CONFIDENTIALITY OF REPORTS

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

1016.7 TRAINING

All employees shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (8 CCR 5193):

(a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.

(b) Shall be provided whenever the employee is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.

(c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

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Smoking and Tobacco Use

1018.1 PURPOSE AND SCOPE

The Surgeon General has determined that second-hand smoke is hazardous to health. Tobacco products may also be offensive to employees and the public.

1018.2 POLICY

Smoking and other use of tobacco products is not permitted inside all City facilities, City vehicles, equipment or rolling stock. It shall also be the responsibility of all employees to ensure that no person smokes or uses any tobacco product inside City facilities, City vehicles, equipment or rolling stock (California Labor Code § 6404.5).

No person shall smoke tobacco products within 20 feet of a main entrance, exit, or operable window of any public building (including any City facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement, or any other purpose (Government Code § 7596 et seq.).

All employees hired after January 1, 1999 shall sign an agreement stating he/she will not smoke or use any tobacco products at any time while on or off duty. Violation of this agreement will subject the employee to disciplinary action. Smoking an occasional celebration cigar (e.g. birth of a child) shall not be considered a violation of this policy.

Smoking is permitted during meal periods or breaks so long as the Employee is not in violation of the above paragraphs or unless prohibited as a condition of employment.

Employees in uniform are also prohibited from smoking or using tobacco products while in public view.

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Personnel Complaints

1020.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Newport Beach Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1020.2 POLICY

The Newport Beach Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

1020.2.1 ACCEPTANCE OF COMPLAINTS

A complaint may be filed in person, in writing, or by telephoning the Department. Although not required, every effort should be made to have the complainant appear in person. The following should be considered before taking a complaint:

(a) Complaints shall not be prepared unless the alleged misconduct or job performance is of a nature which, if true, would normally result in disciplinary action

(b) When an uninvolved supervisor or the Watch Commander determines that the reporting person is satisfied that their complaint required nothing more than an explanation regarding the proper/improper implementation of department policy or procedure, a complaint need not be taken

(c) When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Personnel Complaint form

(d) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint

1020.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

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Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

1020.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Watch Commander is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Professional Standards Unit, depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Professional Standards Unit, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

1020.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

(a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.

(b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.

(c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.

(d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.

(e) Tort claims and lawsuits may generate a personnel complaint.

1020.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1020.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website. Forms may also be available at other City facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

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1020.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs, or physical evidence may be obtained as necessary.

A complainant shall be provided with a copy of the complaining party's statement at the time it is filed with the Department (Penal Code § 832.7).

1020.4.3 AVAILABILITY OF WRITTEN PROCEDURES

The Department shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

1020.4.4 HATE COMPLAINTS AGAINST PEACE OFFICERS

Internal complaints or complaints from the public shall be accepted and investigated in accordance with this policy where it is alleged that an officer has in the previous seven years, and since 18 years of age, engaged in membership in a hate group, participated in a hate group activity, or advocated any public expression of hate (Penal Code § 13682).

1020.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint.

1020.5.1 COOPERATION DURING CRIMINAL INVESTIGATION

Members have a duty to cooperate with investigators of the Department, or from other law enforcement agencies, who are conducting a criminal investigation. They shall make full, complete, and truthful statements except when such statements would violate the member's right against self incrimination or when such statements might compromise another criminal investigation about which the member has knowledge. Failure to cooperate may subject the member to administrative discipline.

When a person conducting a criminal investigation for another law enforcement agency requests an interview with a member of this Department, the member shall make immediate notification to their Division Commander whenever the member is the subject of the investigation or in any case when the investigation relates to the member's employment as a peace officer. The interview

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must be approved by the Chief of Police or his designee who will also determine if this Department should participate in or otherwise monitor the interview.

1020.5.2 INTERNAL INVESTIGATIONS BY OTHER LAW ENFORCEMENT AGENCIES
Department members may cooperate with other law enforcement agencies conducting internal investigations. If any person conducting an internal investigation for another law enforcement agency requests an interview with a member of this Department, the interview must be approved by the Chief of Police or his designee as detailed below.

The member's Division Commander shall develop relevant background information and refer the matter, in writing, to the Chief of Police. Concurrently, a copy of that material shall be sent to the Professional Standards Unit. The Professional Standards Unit shall consult with the Chief of Police and, if the request is approved, make the necessary notifications and coordinate the interview.

All members interviewed by internal investigators from other law enforcement agencies shall make full, complete and truthful statements.

1020.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1020.6.1 SUPERVISOR RESPONSIBILITIES
In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include but are not limited to:

(a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
    1. The original complaint form will be directed to a supervisor or manager of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
    2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Division Commander or the Chief of Police, who will initiate appropriate action.

(b) Responding to all complainants in a courteous and professional manner.

(c) Resolving those personnel complaints that can be resolved immediately.
    1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.

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2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the appropriate supervisor or manager.

(d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Watch Commander and the Chief of Police are notified via the chain of command as soon as practicable.

(e) Promptly contacting any supervisor or manager, or the City of Newport Beach Human Resources Department, for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.

(f) Forwarding unresolved personnel complaints to the Chief's Executive Officer, who will determine whether to contact the complainant or assign the complaint for investigation.

(g) Investigating a complaint as follows:

1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.

2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.

(h) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).

1020.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Professional Standards Unit, the following applies to members covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

(a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, they shall be compensated.

(b) Unless waived by the member, interviews of an accused member shall be at the Newport Beach Police Department or other reasonable and appropriate place.

(c) No more than two interviewers should ask questions of an accused member.

(d) Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank, and command of the officer in charge of the investigation, the interviewing officers and all other persons to be present during the interview.

(e) All interviews shall be for a reasonable period and the member's personal needs should be accommodated.

(f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards, or other inducements be used to obtain answers.

(g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.

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1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

(h) The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.

(i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

(j) All members shall provide complete and truthful responses to questions posed during interviews.

(k) No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

1020.6.3 LIMITATIONS ON INVESTIGATIONS

Investigations shall not be undertaken against any officer in the following limited circumstances:

(a) The officer has been placed on a prosecutor's *Brady* list, or the name of the officer may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

1. An investigation may be initiated based on the underlying acts or omissions for which the officer has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland*.

(b) A court finding against an officer in a challenge brought under Penal Code § 745 (California Racial Justice Act of 2020) (Government Code § 3305.6).

1. An investigation may be Initiated based on the underlying acts or omissions which formed the basis of the action brought pursuant to Penal Code § 745 (Government Code § 3305.6).

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1020.6.4 AUTHORITY OF PERSONNEL ASSIGNED TO PROFESSIONAL STANDARDS UNIT AND THE EXECUTIVE OFFICER

Sergeants assigned to the Professional Standards Unit and the Executive Officer have been delegated the authority by the Chief of Police to issue orders compelling cooperation in an investigation from all personnel, regardless of rank, within the Department. Refusal to obey the lawful order to cooperate in an investigation shall be deemed insubordination and the employee may be subject to disciplinary action up to and including termination.

1020.6.5 ADMINISTRATIVE INVESTIGATION FORMAT

Investigations of personnel complaints shall be detailed, complete and essentially follow this format:

Summary of Complaint - Provide a very brief summary of the facts giving rise to the investigation including the initial date, the source of the complaint, and the allegation(s).

Investigations - Details of the evidence applicable to each allegation should be set forth, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.

Investigator's Comments - Analysis of evidence applicable to each allegation.

Exhibits - A separate list of exhibits (recordings, photos, documents, etc.) should be attached to the report.

1020.6.6 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8).

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

Sustained - A final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Government Code § 3304 and Government Code § 3304.5 that the actions of an officer were found to violate law or department policy (Penal Code § 832.8).

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

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1020.6.7 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1.

1020.6.8 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

1020.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

Lockers and storage spaces may only be administratively searched in the member's presence, with the member’s consent, with a valid search warrant or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

1020.7.1 DISCLOSURE OF FINANCIAL INFORMATION

An employee may be compelled to disclose personal financial information under the following circumstances (Government Code § 3308):

(a) Pursuant to a state law or proper legal process

(b) Information exists that tends to indicate a conflict of interest with official duties

(c) If the employee is assigned to or being considered for a special assignment with a potential for bribes or other improper inducements

1020.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

(a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.

(b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.

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(c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1020.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

The Newport Beach Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1020.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review the report and include his/her comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

1020.10.1 DIVISION COMMANDER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Commander of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Division Commander may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Division Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Division Commander shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1020.10.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Division Commander for further investigation or action.

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Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a pre-disciplinary procedural due process hearing (*Skelly*) by providing written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Chief of Police shall also provide the member with:

(a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.

(b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.

    1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.

    2. If the member elects to respond orally, the presentation may be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

1020.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief of Police or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint (Penal Code § 832.7(f)).

1020.10.4 NOTICE REQUIREMENTS

The disposition of any civilian's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7(f)).

1020.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

(a) The response is not intended to be an adversarial or formal hearing.

(b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.

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(c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.

(d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.

(e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

1020.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline (Penal Code § 13510.8).

1020.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, Memorandum of Understanding, and/or personnel rules.

In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

During any administrative appeal, evidence that an officer has been placed on a *Brady* list or is otherwise subject to *Brady* restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such *Brady* evidence shall be limited to determining the appropriateness of the penalty (Government Code § 3305.5).

Additionally, any evidence of a court finding that an officer violated Penal Code § 745 (California Racial Justice Act of 2020) shall not be introduced for any purpose in any administration appeal of a punitive action (Government Code § 3305.6).

1020.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and those members other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary officer subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304).

At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before

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the Chief of Police or authorized designee for a non-evidentiary hearing for the sole purpose of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Chief of Police shall be final.

1020.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

1020.16 REQUIRED REPORTING TO POST

The Chief of Police or the authorized designee shall notify POST on the appropriate POST form within 10 days of certain officer personnel events, including but not limited to (Penal Code § 13510.9):

(a) Termination or separation from employment or appointment. Separation from employment or appointment includes any involuntary termination, resignation, or retirement.

1. A POST affidavit-of-separation form shall be executed and maintained by the Department and submitted to POST as required by Penal Code § 13510.9 and 11 CCR 1003.

(b) Events that could affect an officer's POST certification, such as:

1. Complaints, charges, or allegations of serious misconduct (as defined by Penal Code § 13510.8).
2. Findings of civilian review boards.
3. Final dispositions of any investigations.
4. Civil judgments or court findings based on conduct, or settlement of a civil claim against an officer or the Newport Beach Police Department based on allegations of conduct by an officer.

The Chief of Police or the authorized designee shall be responsible for providing POST access to or duplication of investigation documentation (e.g., physical or documentary evidence, witness statements, analysis, conclusions) within the applicable timeframe provided in Penal Code § 13510.9.

1020.16.1 NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT

The Chief of Police or the authorized designee shall report allegations of serious misconduct by an officer to POST and the report shall include the following (11 CCR 1207):

(a) Name of the Department

(b) Administrative case number

(c) Name, current address, and phone number of the complainant, if available

(d) Name, POST ID, current address, and phone number of the involved officer

(e) A summary of the alleged misconduct including:

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1. A narrative of the allegations
2. Date and time of incidents
3. Location of occurrence
4. Any witness information, if available
5. Summary of arrest or indictment of involved officer

(f) A change in employment status of the involved officer (e.g., administrative leave, suspension, termination)

(g) Name and contact information of the assigned investigator

The Chief of Police or the authorized designee shall provide updates of the investigation to POST every 90 days until the final disposition in the method designated by POST (11 CCR 1207).

Upon completion of the investigation, the Chief of Police or the authorized designee shall submit to POST the final disposition of the investigation as well as investigation materials and the officer's service record as provided by 11 CCR 1207.

1020.16.2 ADDITIONAL NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT
Additional notification shall be made to POST (11 CCR 1207):

(a) If the imposed disciplinary action is pending appeal or other review through an administrative or judicial proceeding:

1. The Department shall provide the name of the body conducting the proceeding.
2. The status of the proceeding, if known.

(b) If criminal charges are pending:

1. The name of the court having jurisdiction over the criminal charges against the officer.
2. The status of the criminal case, if known.

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Seat Belts

1022.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in department vehicles (Vehicle Code § 27315.5).

Guidance for transporting persons in custody may be found in the Transporting Persons in Custody and Handcuffing and Restraints policies.

1022.2 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

1022.4 INOPERABLE SEAT BELTS

Department vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Department vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

1022.4 POLICY

It is the policy of the Newport Beach Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

1022.5 TRANSPORTING CHILDREN

Children under the age of 8 shall be transported in compliance with California’s child restraint system requirements (Vehicle Code § 27360; Vehicle Code § 27363).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer’s design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system

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in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363).

1022.6 VEHICLES MANUFACTURED WITHOUT SEAT BELTS

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

1022.7 VEHICLE AIRBAGS

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

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Safety Equipment

1024.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

1024.2 POLICY

It is the policy of the Newport Beach Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

1024.3 ISSUANCE OF BODY ARMOR

The Support Services Deputy Director shall ensure that body armor is issued to all sworn officers when the sworn officer begins service at the Newport Beach Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Support Services Deputy Director shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

1024.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

(a) Sworn officers shall only wear agency-approved body armor.

(b) Sworn officers shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.

(c) Sworn officers may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.

(d) Body armor shall be worn when a sworn officer is working in uniform in contact with the public or taking part in weapons training. The Rangemaster can exempt the use of body armor for weapons training where he or she determines it is either impractical or unnecessary.

(e) A sworn officer may be excused from wearing body armor when he or she is involved in undercover or plainclothes work that his or her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

1024.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness, and signs of damage, abuse and wear.

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1024.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Soft body armor should be replaced in accordance with the manufacturer's recommended replacement schedule.

1024.4 HIGH-VISIBILITY VESTS

The Department has provided ANSI Class II high-visibility vests to reduce the danger to employees who may be exposed to hazards presented by passing traffic, construction vehicles and disaster recovery equipment (23 CFR 634).

Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the employee.

1024.4.1 REQUIRED USE

High-visibility vests shall be worn at any time an employee is exposed to the hazards of approaching traffic such as while performing traffic control duties, accident investigations, lane closures and while at disaster scenes. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as a member of law enforcement.

1024.5 RANGEMASTER RESPONSIBILITIES

The Rangemaster should:

(a) Monitor technological advances in the body armor industry for any appropriate changes to Department approved body armor.

(b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.

(c) Provide training that educates officers about the safety benefits of wearing body armor.

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Personnel Records

1026.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

1026.2 POLICY

It is the policy of this department to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of California (Penal Code § 832.7).

1026.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department file should contain, at a minimum:

(a) Personal data, including photographs, marital status, names of family members, educational and employment history, or similar information. A photograph of the member should be permanently retained.

(b) Election of employee benefits.

(c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.

(d) Original performance evaluations. These should be permanently retained.

(e) Discipline records, including copies of sustained personnel complaints (see the Personnel Complaints Policy).

1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained pursuant to the established records retention schedule and at least four years (Government Code § 12946).
2. Disciplinary action resulting from a sustained civilian's complaint involving misconduct shall be maintained pursuant to the established records retention schedule and at least 15 years (Penal Code § 832.5).
3. A civilian's complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and at least five years (Penal Code § 832.5).

(f) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment (Government Code § 3305).

1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment within 30 days (Government Code § 3306).
2. Any member response shall be attached to and retained with the original adverse comment (Government Code § 3306).

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3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment and the member should sign or initial the noted refusal. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file (Government Code § 3305).

(g) Commendations and awards.

(h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

1026.4 TRAINING FILE

An individual training file shall be maintained by the Training Manager for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

(a) The involved member is responsible for providing the Training Manager or immediate supervisor with evidence of completed training/education in a timely manner.

(b) The Training Manager or supervisor shall ensure that copies of such training records are placed in the member’s training file.

1026.5 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Professional Standards Unit in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Professional Standards Unit supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member's file but will be maintained in the internal affairs file:

(a) Not sustained

(b) Unfounded

(c) Exonerated

Investigation files arising out of sustained civilian’s complaints involving misconduct shall be maintained pursuant to the established records retention schedule and for a period of at least 15 years. Investigations that resulted in other than a sustained finding may not be used by the Department to adversely affect an employee’s career (Penal Code § 832.5).

Investigation files arising out of internally generated complaints shall be maintained pursuant to the established records retention schedule and for at least four years (Government Code § 12946).

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Investigation files arising out of a civilian complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and for at least five years (Penal Code § 832.5).

1026.6 MEDICAL FILE

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the member's medical condition and history, including but not limited to:

(a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).

(b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.

(c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.

(d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.

(e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

1026.7 SECURITY

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the City Manager, City Attorney or other attorneys or representatives of the City in connection with official business.

1026.7.1 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

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1026.7.2 RELEASE OF PERSONNEL INFORMATION

Personnel records shall not be disclosed except as allowed by law (Penal Code § 832.7; Evidence Code § 1043) (see also Records Maintenance and Release Policy).

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor (Penal Code § 146e).

The Department may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media and that the member (or representative) knows to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7).

The Department may, without a request, disclose to the public the cause of termination for a disclosable incident involving a former officer, as permitted by law (Penal Code § 832.7(b)(13)).

1026.7.3 RELEASE OF LAW ENFORCEMENT GANG INFORMATION

Information relating to the termination of an officer from this department for participation in a law enforcement gang shall be disclosed to another law enforcement agency that is conducting a pre-employment background investigation except where specifically prohibited by law (Penal Code § 13670).

1026.7.4 RELEASE OF PEACE OFFICER RECORDS RELATING TO HATE COMPLAINTS

Records relating to an officer for an investigation of a hate complaint described in Penal Code § 13682 with a sustained finding that the officer engaged in membership in a hate group, participated in a hate group activity, or advocacy of public expressions of hate are not confidential and shall be made available for public inspection though a public records request (Penal Code § 13683).

Records disclosed may be redacted as provided in Penal Code § 13683.

1026.8 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.

1026.8.1 DEFINITIONS

Brady Material - In the Brady v. Maryland decision (373 U.S. 83 (1963)) the United States Supreme Court held that the prosecution has an affirmative duty to disclose to the defendant evidence which is both favorable and material to the guilt and/or punishment of the defendant.

The Prosecution - Refers to the District Attorney and all investigative agencies involved in the criminal prosecution of a defendant, including this department.

Penal Code§ 1054.1 - California law also establishes a criminal defendant's right to access potentially exculpatory evidence.

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1026.8.2 RELEASE OF PERSONNEL FILES TO DISTRICT ATTORNEY

Pursuant to Penal Code § 832.7(a), the only time the District Attorney (Attorney General or Grand Jury) is entitled to access confidential peace officer personnel files without filing a so-called Pitchess motion (Evidence Code § 1043 et seq.) is when they are investigating the conduct of an officer or this department. Such access shall not be considered a waiver of the confidentiality of the information contained in these files.

Absent a specific investigation of identified officer(s) or a specific investigation of this department (or the consent of an involved officer), no confidential information from any officer's personnel file shall be released to the District Attorney or Grand Jury without full compliance with the Pitchess process. The prosecution of a criminal defendant is not considered an investigation of any involved officer.

Should an officer's credibility or other issues related to an officer's personnel file arise in the context of an officer acting as a witness for the prosecution, access to that officer's personnel file by either the District Attorney or the criminal defendant shall be limited to that which is authorized by the process set forth in Evidence Code § 1043, et seq.

1026.8.3 PROCEDURE

If an officer is a material witness in a criminal case, a person or persons designated by the Chief of Police may examine the subject officer's personnel file to determine whether there are Brady materials contained therein (e.g., evidence which is both favorable and material to the guilt and/or punishment of the defendant). If Brady material is located, the following procedure shall apply:

(a) In the event that a Pitchess motion has not already been filed by the criminal defendant or other party, the District Attorney shall be notified of the potential presence of Brady material in the officer's personnel file

(b) The District Attorney should be instructed to file a Pitchess motion in order to initiate an in camera review by the court

(c) As with any Pitchess motion, and prior to any review of the files by the court, subject officer(s) shall be notified in writing that a Pitchess motion has been filed

(d) The responsible Custodian of Records shall accompany all relevant personnel files during any in camera inspection and address any issues or questions raised by the court in determining whether or not any material contained in the file is both material and favorable to the criminal defendant

(e) If the court determines that there is relevant Brady material contained in the file(s), only that material ordered released will be copied and released to the parties filing the Pitchess motion

    1. Prior to the release of any materials pursuant to this process, the Custodian of Records 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.

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1026.9 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF OFFICERS

Personnel records and records related to certain incidents, complaints, and investigations of officers shall be released pursuant to a proper request under the Public Records Act and subject to redaction and delayed release as provided by law.

The Custodian of Records should work as appropriate with the Chief of Police or the Professional Standards Unit supervisor in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(3):

- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.
- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, whether the officer's action was consistent with law and department policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth findings or recommending findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the *Skelly* or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

Unless a record or information is confidential or qualifies for delayed disclosure as provided by Penal Code § 832.7(b)(8) or other law, the following records (hereinafter qualifying records) shall be made available for public inspection no later than 45 days from the date of a request (Penal Code § 832.7(b)(1)):

(a) Records relating to the report, investigation, or findings of:

1. The discharge of a firearm at another person by an officer.
2. The use of force against a person resulting in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) by an officer.
3. A sustained finding involving a complaint that alleges unreasonable or excessive force.
4. A sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive.

(b) Records relating to an incident where a sustained finding was made by the Department or oversight agency regarding:

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1. An officer engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
2. Dishonesty of an officer relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another officer, including but not limited to any false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.
3. An officer engaged in conduct including but not limited to verbal statements, writings, online posts, recordings, and gestures involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
4. An officer made an unlawful arrest or conducted an unlawful search.

Qualifying records will be made available regardless of whether the officer resigns before the Department or an oversight agency concludes its investigation (Penal Code § 832.7(b)(3)).

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (Penal Code § 832.7(b)(4)).

When an investigation involves multiple officers, the Department shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an officer unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(5). However, factual information about the action of the officer during an incident or the statements of an officer shall be released if the statements are relevant to a finding of the qualified allegation against another officer that is subject to release (Penal Code § 832.7(b)(5)).

1026.9.1 REDACTION

The Custodian of Records, in consultation with the Chief of Police or authorized designee, shall redact the following portions of qualifying records made available for release (Penal Code § 832.7(b)(6)):

(a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of officers

(b) Information that would compromise the anonymity of whistleblowers, complainants, victims, and witnesses

(c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force

(d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the officer or another person

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Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (Penal Code § 832.7(b)(7)).

1026.9.2 DELAY OF RELEASE

Unless otherwise directed by the Chief of Police, the Custodian of Records should consult with a supervisor familiar with the underlying investigation to determine whether to delay disclosure of qualifying records due to any of the following conditions (Penal Code § 832.7):

(a) Active criminal investigations

1. Disclosure may be delayed 60 days from the date the 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 in which misconduct occurred 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:
   (a) 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

1026.9.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of qualifying records, the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

(a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.

(b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.

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

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no later than 18 months after the date of the incident, whichever occurs sooner, unless:

(a) When the criminal proceeding is against someone other than an officer and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Department must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about misconduct or use of force by officers.

In cases where an action to compel disclosure is brought pursuant to Government Code § 7923.000, the Department may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (Penal Code § 832.7(b)(8)).

1026.10 MEMBERS' ACCESS TO THEIR PERSONNEL RECORDS

Any member may request access to the member's own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from the member's personnel records shall file a written request to the Chief of Police through the chain of command. The Department shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member’s request and the written response from the Department shall be retained with the contested item in the member’s corresponding personnel record (Government Code § 3306.5).

Members may be restricted from accessing files containing any of the following information:

(a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.

(b) Confidential portions of internal affairs files that have not been sustained against the member.

(c) Criminal investigations involving the member.

(d) Letters of reference concerning employment/appointment, licensing, or issuance of permits regarding the member.

(e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.

(f) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments, or other comments or ratings used for department planning purposes.

(g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.

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(h) Records relevant to any other pending claim between the Department and the member that may be discovered in a judicial proceeding.

1026.11 RETENTION AND PURGING

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

(a) During the preparation of each member’s performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.

(b) If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Chief of Police.

(c) If, in the opinion of the Chief of Police, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

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Incident Reports

1030.1 PURPOSE AND SCOPE

Incident reports may be used to report minor unfavorable or favorable conduct. This procedure provides general guidelines for the reporting of minor unfavorable or favorable conduct.

1030.2 USE OF INCIDENT REPORTS

Incident reports may be made by any supervisor regarding any other employee of the Department, provided the reporting person is superior in rank or is the person-in-charge of the employee. Any employee may recommend a commendation to the supervisor of the employee subject to commendation.

1030.3 FAVORABLE / UNFAVORABLE ACTIONS

A favorable act by an employee of this department may include, but is not limited to, the following:

- Superior handling of a difficult situation by an employee
- Conspicuous bravery or outstanding performance by any employee of the Department
- Any action or performance that is above and beyond the typical duties of an employee

A minor unfavorable act by an employee of this department may include, but is not limited to, the following:

- Tardiness
- Failure to complete range qualification
- Untimely submission of paperwork

1030.3.1 DOCUMENTATION

The Incident Report shall be used to document the favorable/unfavorable action(s) of the employee and shall contain the following:

(a) Employee name, division, and assignment at the date and time of the favorable/ unfavorable incident

(b) A brief account of the favorable/unfavorable action shall be documented on the form with report numbers, as appropriate

(c) Signatures of the reporting supervisor, the employee's supervisor, and the Division Commander

The Division Commander shall sign and forward the report to the Chief of Police for his/her review. The Chief of Police will return the commendation to the employee for his/her signature. The report will then be returned to the Administrative Specialist to the Chief of Police for entry into the employee's personnel file.

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Fitness for Duty

1032.1 PURPOSE AND SCOPE

All officers are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all officers of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

It is not the intention of this policy to interfere with a supervisor's ability to recommend or suggest personal counseling to a subordinate, nor is this policy intended to alter or replace confidential counseling provided by the department as a result of critical incidents. Rather, this policy is intended to provide a mechanism for the assessment of an employee's mental and emotional ability to perform essential functions of their position when the employee's conduct, behavior and circumstances indicate to a reasonable person that continued service by the employee may be a threat to public safety, the safety of other employees, the safety of the particular employee, or, may interfere with the City's ability to deliver effective police services.

1032.2 EMPLOYEE RESPONSIBILITIES

(a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position. An employee injured while participating in an approved physical fitness activity shall, as soon as is practical, notify his or her immediate supervisor.

(b) Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints.

(c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.

(d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

1032.2.1 EMPLOYEE PHYSICAL FITNESS

ATHLETIC ACTIVITY REGISTER

Athletic Activity Registers (13.5) are used to record names of participating employees, approved activities, dates, and times. When an employee participates in a physical fitness activity, he/she shall note activities in the Athletic Activity Register maintained in the police facility weight room.

TRAINING SUPERVISOR'S RESPONSIBILITIES

The Training Supervisor shall:

- Maintain in file all completed Athletic Activity Registers

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- Periodically inspect and evaluate facilities.

OFFICER'S RESPONSIBILITIES

Participating officers must:

- Document their activities on an athletic activity register
- Refrain from other than physical fitness activities while "signed in" on the Athletic Activity Register

Physical Fitness Activities Must Meet The Following Criteria:

- The activity's purpose is the achievement or maintenance of optimum physical fitness
- The activity is conducted at the police facility. Note: All running activities shall originate and terminate at the police facility.

PHYSICAL FITNESS ACTIVITIES - INJURIES

If a full-time, sworn employee is injured while engaged in an approved physical fitness activity, it will be considered "IOD," provided that:

- The sworn employee was adhering to all pertinent departmental regulations
- The sworn employee is examined by a physician as soon as practical after the injury Note: Non-sworn employees may use the same facilities or athletic equipment, but they do so at their own risk.

SUPERVISOR'S RESPONSIBILITIES

The injured employee's supervisor shall:

- Investigate all IOD claims resulting from physical fitness activities to ascertain IOD qualification
- Ensure all IOD employees are examined by a physician as soon as practical

POLICE CHIEF'S RESPONSIBILITIES

The Chief of Police shall ensure that, prior to awarding IOD status to a physical fitness activity related injury, all pertinent departmental regulations have been followed.

1032.2.2 DEFENSIVE TACTICS INSTRUCTORS

Department Defensive Tactics Instructors (DTI) are expected to maintain proficiency in forms of weaponless defense and related subjects that enable them to perform their training role.

INITIAL TRAINING

Officers selected as Defensive Tactics Instructors will attend department approved training that certifies them as instructors in the area of:

- Weaponless Defense/Arrest-Control

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- Impact Weapons

REFRESHER TRAINING

To maintain proficiency and to obtain information on updated techniques, a DTI should attend department approved refresher courses as approved by the supervising DTI at least bi-annually.

OPTIONAL TRAINING

Other department approved or paid corollary training must be approved by the Patrol/Traffic and Support Services Division Commanders in conjunction with recommendations from the Supervising Defense Tactics Instructor.

PERSONAL TRAINING

Any other individual or group defensive tactics related training activities conducted or engaged in by a DTI are at the sole and exclusive risk of the DTI, unless specifically approved by the Patrol/ Traffic Division Commander and the Supervising Defensive Tactics Instructor. Approved activities must be conducted at the police facility or other approved location.

INJURIES

Injuries received by a DTI during an approved activity will be considered "Injured on Duty." Injuries occurring as a result of unapproved training or similar activities, or activities outside the scope of the approval, will not be classified "Injured on Duty."

1032.2.3 POLICE EXPLORERS
Police Explorers may use the Department gym or athletic equipment, but only when supervised by a sworn officer.

1032.3 SUPERVISOR RESPONSIBILITIES

(a) A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.

(b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.

(c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.

(d) In conjunction with the Watch Commander or employee’s available Division Commander, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.

(e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

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1032.4 NON-WORK RELATED CONDITIONS

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

1032.5 WORK RELATED CONDITIONS

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Watch Commander or unit supervisor and concurrence of a Division Commander, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

(a) A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate.

(b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

1032.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

(a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief of Police, with the approval of the Human Resources Director, may serve that employee with a written order to undergo a physical and/or psychological examination to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.

(b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties (Civil Code § 56.10 (c)(8)(A)). If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)(B)).

(c) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/ or treatment.

(d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.

(e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed.

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Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

(f) Depending upon the results of the evaluation and the recommendation of the treating physician or therapist, the Department may:

1. Return the employee to full duty
2. Place the employee on temporary light or modified duty
3. Remove the employee from any duties pending treatment and re-evaluation
4. Conditionally allow full or modified duty on receipt of treatment
5. Institute or resume disciplinary proceedings as appropriate
6. Institute proceedings to terminate employment, or when appropriate, offer an alternative position, for which the employee may be qualified

Where possible, it is always the Department's intent to rehabilitate an employee and achieve a return to full duty status.

1032.7 LIMITATION ON HOURS WORKED

Absent emergency operations and without express permission from a supervisor, members shall not work more than:

a. 16 hours in one day (24 hours)

b. 30 hours in any two day (48 hour) period

c. 84 hours in any seven day (168 hour) period

d. 10 consecutive days

Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

It shall be the responsibility of the individual employee and all supervisors tasked with scheduling duties, to ensure that the above overtime limitations are followed. When an employee signs up for an overtime assignment, the supervisor shall enter that assignment into ISE in a timely manner to help facilitate adherence to this policy.

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Meal Periods and Breaks

1034.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as possible, shall conform to the Newport Beach Police Employee Association MOU, the Newport Beach Police Management Association MOU, and the policy governing all City employees that has been established in the Employee Policy Manual.

1034.1.1 MEAL PERIODS

Sworn employees and dispatchers shall remain on duty subject to call during meal breaks. All other employees are not on call during meal breaks unless directed otherwise by a supervisor.

Uniformed patrol and traffic officers shall request clearance from Dispatch prior to taking their 40 minute meal break and shall designate the location of the meal break. Uniformed officers may take their breaks within the City limits or outside the City limits if the break location is in the immediate vicinity of, or adjacent to the City limits. Supervisor approval is required for any break location more than 1 mile outside the City limits, unless the officer is on assignment outside of the City.

There shall be no more than two uniformed personnel taking their meal breaks or other breaks at the same time and location. The following are the only exceptions:

- Special events where personnel are fed en masse
- Police Department
- If two or more personnel are assigned to the same unit (e.g. FTO and trainee)

Missed or interrupted meal breaks are not eligible for overtime.

1034.1.2 15 MINUTE BREAKS

Each employee is entitled to a 15 minute break, near the midpoint, for each four-hour work period. Only one 15 minute break shall be taken during each four hours of duty. No breaks shall be taken during the first or last hour of an employee's shift unless approved by a supervisor.

Employees normally assigned to the police facility shall remain in the police facility for their breaks. This would not prohibit them from taking a break outside the facility if on official business.

Field officers will take their breaks in their assigned areas, subject to call and shall monitor their radios. When field officers take their breaks away from their vehicles, they shall do so only with the knowledge and clearance of Dispatch.

1034.2 SECTION TITLE

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Lactation Breaks

1035.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding reasonable accommodations for lactating members (Labor Code § 1034).

1035.2 POLICY

It is the policy of the Newport Beach Police Department to provide, in compliance with federal and state law, reasonable accommodations for lactating members. This includes break time and appropriate facilities to accommodate any member desiring to express breast milk for the member's nursing child (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3; Labor Code § 1030).

1035.3 LACTATION BREAK TIME

A rest period should be permitted each time the member requires a lactation break (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3; Labor Code § 1030). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time.

Lactation breaks, if feasible, should be taken at the same time as the member's regularly scheduled rest or meal periods. While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Members desiring to take a lactation break shall notify the dispatcher or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

1035.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate members with the use of an appropriate room or other location to express milk in private. Such room or place should be in proximity to the member's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view, free from intrusion from coworkers and the public, and otherwise satisfy the requirements of federal and state law (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3; Labor Code § 1031).

Members 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 members should avoid interrupting a member during an authorized break, except to announce an emergency or other urgent circumstance.

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Authorized lactation breaks for members assigned to the field may be taken at the nearest appropriate private area.

1035.5 STORAGE OF EXPRESSED MILK

Any member storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the member's shift ends.

1035.5.1 STATE REQUIREMENTS

Members have the right to request lactation accommodations. If a break time or location accommodation cannot be provided, the supervisor shall provide the member with a written response regarding the reasons for the determination (Labor Code § 1034).

Lactation rooms or other locations should comply with the prescribed feature and access requirements of Labor Code § 1031.

Members who believe that their rights have been violated under this policy or have been the subject of discrimination or retaliation for exercising or attempting to exercise their rights under this policy, are encouraged to follow the chain of command in reporting a violation, but may also file a complaint directly with the Labor Commissioner (Labor Code § 1033).

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Payroll Records

1036.1 PURPOSE AND SCOPE

This policy provides the guidelines for completing and submitting payroll records of department members who are eligible for the payment of wages.

1036.2 ISE ABBREVIATIONS

Supervisors using the ISE scheduling program shall select the most appropriate assignment type abbreviation and shift assignment abbreviation for each day of the month.

1036.3 POLICY

The Newport Beach Police Department maintains timely and accurate payroll records.

1036.4 RESPONSIBILITIES

Members are responsible for the accurate completion and timely submission of their payroll records for the payment of wages.

Supervisors are responsible for approving the payroll records for those under their commands.

1036.5 TIME REQUIREMENTS

Members who are eligible for the payment of wages are paid on a scheduled, periodic basis, generally on the same day or date each period, with certain exceptions, such as holidays. Payroll records shall be completed and submitted to Support Services as established by the City payroll procedures.

1036.6 RECORDS

The Support Services Division Commander shall ensure that accurate and timely payroll records are maintained as required by 29 CFR 516.2 for a minimum of three years (29 CFR 516.5).

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Employee Recognition

1037.1 DEPARTMENTAL VALOR/MERIT/LIFESAVING AWARDS.

It shall be the policy of the Newport Beach Police Department to recognize those members of the department who, while serving in an official capacity, distinguish themselves conspicuously by heroic action or other performance above and beyond the call of duty. Such recognition shall result in the presentation of a Medal of Valor, Award of Merit, or Lifesaving Award.

ELIGIBILITY

All employees of the Newport Beach Police Department are eligible for the valor/merit/lifesaving awards.

Nothing in this policy shall be construed to mean the department must identify an award recipient on an annual basis. If none of the nominees qualify for the awards, none shall be given.

Each recommendation for the Medal of Valor, Award of Merit, or Lifesaving Award is based upon the following criteria.

MEDAL OF VALOR

The following factors shall be considered by the award review committee:

The situation was extremely hazardous.

A strong possibility existed at the time the employee acted that he/she could have suffered serious injury or death. In essence, the risk of life actually existed, and there was time, however brief, to evaluate that risk.

The act was not foolhardy.

The employee did not use poor judgment or procedures, thus creating the necessity for his/her acts.

The fact that he/she then performed valorously shall not in itself merit the award for valor.

Based on the nature of the circumstances encountered by the employee, and the scope of his/her responsibilities to act accordingly, the employee would not be subject to criticism for failing to act. In essence, the employee's actions were clearly beyond anyone's reasonable expectations.

The action taken by the employee met an important objective which was deemed justifiable by the review committee, or failed to meet it due to an injury sustained as a result of the valorous act.

AWARD OF MERIT

The following factors shall be considered by the award review committee:

The Award of Merit shall be given for conduct which is deserving of recognition, however does not meet the criteria outlined for the Medal of Valor. The award may also be given for actions which result in significant benefit to the department or City and are considered to be "above and beyond" an employee's normal job responsibilities.

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If no action had been taken, the employee, an innocent bystander, or the suspect may have been injured. The action taken should have been beyond the reasonable performance expectations of the employee's job responsibilities.

The act was not foolhardy.

The employee did not use poor judgment or procedures, thus creating the necessity for his/her acts.

The fact that he/she then performed valorously shall not in itself merit the award.

LIFESAVING AWARD

The following factors shall be considered by the award review committee:

The Lifesaving Award may be given for actions that result in saving or attempting to save a life or prevent serious injury to any other person providing:

The act was not foolhardy.

The employee did not use poor judgment or procedures.

NOMINATING PROCEDURE

Nominations for the award of valor/merit/lifesaving of a member of the Newport Beach Police Department shall be made by the appropriate division or independent supervisors whenever they have knowledge that an act of valor/merit/lifesaving has been performed which is deserving of such recognition. A nomination may also be made by any member of the department who may have witnessed a valorous act or other display of significant performance by another member of the department, or who may have independent knowledge of such an occurrence.

The nomination shall be forwarded through the chain of command to the chief of police as soon after the incident occurs as possible, however, no later than January 15 of each calendar year.

The memo of nomination shall contain the date, time, place, and a detailed account of the act performed.

The memo shall contain the suggested wording to be placed on the accompanying certificate.

SELECTION AND PRESENTATION

An award review committee will convene to consider those nominated for a Medal of Valor, Award of Merit, or Lifesaving Award. The board will be chaired by the Patrol/Traffic commander, and will include a lieutenant and sergeant appointed by the chief of police, two representatives appointed by the Police Association Board of Directors, and past recipient of each award. The committee will forward their recommendation(s) in writing to the chief of police for a final decision.

Persons selected to receive the Medal of Valor/Award of Merit/Lifesaving Award will be presented such award at a time and location determined by the chief of police.

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No limitation is placed on the number of times the Medal of Valor, Award of Merit, or Lifesaving Award may be awarded an individual. However, only one basic award of the medal is authorized per individual as a result of conduct originating from the same circumstances.

Posthumous Awards - The next of kin is entitled to receive the Medal of Valor earned by a deceased member of the Newport Beach Police Department. The next of kin, in order of precedence, are: widow/widower, eldest child, father or mother*, eldest sibling, eldest grandchild. *If there is no mutual agreement of parents, the parent named as insurance beneficiary shall receive the award.

AWARD DESCRIPTIONS

Each award shall be silver in color and displayed on a suspension ribbon. A smaller facsimile shall be made available to be worn on the employee's uniform above their name tag.

1037.1.1 EMPLOYEE OF THE YEAR PROGRAM

The policy of the Newport Beach Police Department is to insure the most qualified/deserving persons are the recipients of the Police Officer of the Year, Civilian Employee of the Year, Supervisor of the Year, and Volunteer of the Year awards. The awards will be presented for overall performance and contribution to the improvement of the organization and its ability to provide law enforcement services to the public.

PROCEDURE

From December 1 – January 15 all sworn supervisory personnel with the rank of lieutenant and below shall submit a nomination of an officer of the year for the previous calendar year, and may submit a nomination of a civilian employee of the year. Other members of the department may submit a nomination of an officer, civilian, supervisor, and volunteer, other than themselves, to the chief of police. All civilian supervisors shall submit a nomination of a civilian employee. All nominations must include a statement as to the reasons for the recommendation. Nominations may be made across divisional lines (the employee nominated does not have to work for the particular supervisor making the nomination).

All lieutenants, deputy chiefs, and the deputy director shall submit a nomination of a supervisor (sworn and civilian) to the chief of police during the same time frame. All nominations shall include a statement as to the reasons for the recommendation.

The Police Officer and Civilian Employee of the Year Awards Committee will consist of a lieutenant (who will serve as chairperson), two sergeants, two members of the Police Association Board of Directors, and a past recipient of the award. When deliberating on the Civilian Employee of the Year nominations, one department civilian supervisor will be included on the committee. This committee will review all selection criteria and narrow the field of candidates to three sworn officers and two civilian employees (based upon the smaller number of civilian employees for consideration), to be forwarded to the police chief for final approval.

The Sworn Supervisor and Civilian Supervisor of the Year Awards Committee will consist of the Support Services deputy director, one deputy chief, one lieutenant, one sergeant, and two

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representatives appointed by the Police Association Board of Directors (one sworn, one civilian). The committee will review all selection criteria in the same manner as the other committees and recommend two sworn candidates and two civilian candidates to the chief of police.

The Volunteer of the Year Awards Committee will consist of the volunteer coordinators and will be chaired by the lieutenant commanding the volunteer program. The committee will review all selection criteria in the same manner as the other committees and recommend two candidates to the chief of police.

The police chief will then review the nominated persons and make a final decision regarding the Police Officer, Civilian Employee, Sworn Supervisor, Civilian Supervisor, and Volunteer of the Year. He may consult the awards committee for clarification of their opinion/reasons for their recommendations.

The individuals selected shall be awarded a plaque commemorating their recognition as Police Officer, Civilian Employee, Sworn Supervisor, Civilian Supervisor, and Volunteer of the Year. A press release shall indicate their names and the reason why they were selected for the prestigious honor.

A person shall not be eligible to win two years in a row; however, after one year, he/she would be eligible again. This would encourage people to continue to excel in their performance and be rewarded as such.

SELECTION CRITERIA

In order to be nominated for the awards, the recommended employee should be a role model in the department. In order to be selected for the award, the employee's most recent evaluation must reflect such above average performance.

The awards committee's evaluation will be based upon work performed and/or organizational contributions made during the previous calendar year, and not focus on any one isolated event.

Specific employee traits which should be considered during the selection process include work performance, "team player", initiative, integrity, dependability, judgement, attitude, compassion, community involvement, leadership, work knowledge, peer respect, and supervisory skills (supervisors only).

At the conclusion of the evaluation process, a memorandum shall be written to the chief of police with the committee's recommendations for the awards, including the reasons why each of the candidates were recommended.

1037.1.2 EMPLOYEE RECOMMENDATIONS

EMPLOYEE

Any employee desiring to recommend the adoption of new ideas, or the modification of existing procedures, should submit an Employee Recommendation Report (15.7.2) to their immediate supervisor.

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EMPLOYEE'S SUPERVISOR

Each of the initiating employee's superiors in the chain of command shall evaluate the recommendation and comment on its practicality and usefulness.

DISTRIBUTION

All completed Employee Recommendation Reports will be forwarded, with comments, to the chief of police. A copy of this completed report, including comments, will be forwarded to the employee submitting the recommendation.

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Overtime Compensation Requests

1038.1 PURPOSE AND SCOPE

It is the policy of the Department to compensate non-exempt salaried employees who work authorized overtime either by payment of wages or compensatory time as agreed and in effect through each employee association Memorandum of Understanding (MOU). In order to qualify for either type of payment, the employee must complete and submit an Overtime Activity Request as soon as practical after overtime is worked.

1038.1.1 DEPARTMENT POLICY

Because of the nature of police work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Department. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

Short periods of work at the end of the normal duty day (e.g., less than one hour in duration) may be handled unofficially between the supervisor and the employee by flexing a subsequent shift schedule to compensate for the time worked rather than by submitting requests for overtime payments. If the supervisor authorizes or directs the employee to complete an Overtime Activity Request for such a period, the employee shall comply.

1038.2 EMPLOYEE OVERTIME REPORTS

Employees shall enter all overtime activity requests in the InTime system immediately after working the overtime assignment, and notify the appropriate supervisor or Watch Commander for verification. Once notified, a supervisor or Watch Commander shall review and approve the overtime activity request within that current pay period. Failure to submit an overtime activity request in a timely manner may result in a delay of compensation.

1038.2.1 SUPERVISORS RESPONSIBILITY

The supervisor who reviews the overtime activity request submitted by the employee shall verify that the overtime was worked before approving the request. All activity requests shall be reviewed and approved prior to the pay period closing.

1038.3 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status. In some cases, the Memorandum of Understanding provides that specific work will compensated at a certain number of overtime hours (e.g., Court). If completed outside of an employee's regularly scheduled shift, the following work shall be compensated at the designated minimum overtime hours:

- Training instruction - personnel assigned as training instructors (two hour minimum)
- Assigned training class (two hour minimum)

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- Required range qualification (one hour minimum)
- Assigned departmental meeting (two hour minimum)
- Call out - off duty personnel called out for a special assignment (two hour minimum)

1038.3.1 ACCOUNTING FOR PORTIONS OF AN HOUR

When accounting for less than a full hour, time worked shall be rounded up to the nearest quarter of an hour as indicated by the following chart:

TIME WORKED	INDICATE ON CARD
1 to 15 minutes	.25 hour
16 to 30 minutes	.50 hour
31 to 45 minutes	.75 hour
46 to 60 minutes	1.0 hour

1038.3.2 OVERTIME RESTRICTIONS

Except for scheduled vacations or with prior supervisor approval, personnel shall not take paid time off within a regularly scheduled shift and then work an overtime assignment within that same regularly scheduled shift.

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Gratuities

1039.1 PURPOSE AND SCOPE

Law enforcement personnel represent government and, via their conduct, bear the responsibility of maintaining the honor and integrity of all government institutions. Personnel shall guard against placing themselves in a position in which any person can expect special consideration or in which the public can reasonably assume that special consideration is being given.

1039.2 POLICY

(a) It is prohibited for Department personnel to solicit or accept from any person, business, or organization, any gift, gratuity, discount, bribe or reward, for the sole benefit of the employee, if it may be reasonably inferred that the person, business, or organization:

1. Seeks to influence action of an official nature or seeks to affect the performance or non-performance of an official duty or seeks to gain a higher level of service than would ordinarily be provided by inducing the presence of any department employee, or
2. Has an interest which may be substantially affected directly or indirectly by the performance or non-performance of an official duty.

(b) Occasionally, the Police Employees or Management Association or the Department may solicit sponsors for official functions such as the Baker-Vegas Run, DARE activities, work related conferences, etc. Such solicitation is not intended to benefit anyone in particular, nor will it result in a change in the Department's performance regarding the potential sponsor. As a result, it is not viewed as in conflict with this policy.

(c) Food and Other Services:

1. When making purchases, whether on or off duty, employees shall pay the posted price(s) for food, beverages, or any other services. Discounts will not be accepted or solicited by any person where his/her official position is used to effect same. As a general rule, food or other such items given to the Department to be shared by everyone, such as during the holidays, would not be considered a gratuity.
    (a) Exception: Coupons available to any citizen may be used by Departmental personnel.

(d) For the purpose of this policy the words "gifts, gratuity, discount, bribe, and reward" shall include money, food, tangible or intangible personal property, loan, promise, service, entertainment or any other consideration.

(e) Violations of this policy may be subject to disciplinary action up to and including termination.

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1039.3 PURCHASE OF LIEN SALE VEHICLES

Employees of this Department, or their agents, shall not purchase vehicles or vehicle parts from any towing agency under contract with the City of Newport Beach, unless the purchase is at a public auction.

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Outside Employment

1040.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for departmental employees engaging in outside employment, all employees shall obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy.

1040.1.1 DEFINITIONS

Outside Employment - Any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

Hired Extra Overtime - Any member of this department who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such hired extra overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

1040.2 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of the Chief of Police. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete an Outside Employment Permit [1.19] which shall be submitted to the employee's immediate supervisor. The supervisor shall (1) ensure that the employment is not of a prohibited type and (2) check whether the employee has the qualifications for the type of work described. The supervisor shall then (1) recommend that the permit be approved or disapproved; (2) justify the approval or disapproval in the space provided on the form; and (3) forward the permit to the concerned employee's Division Commander. The application will then be forwarded through channels to the Chief of Police for consideration.

If approved, the employee will be provided with a copy of the approved permit. The Police Chief's approval of outside employment may be revoked in the event of a change in circumstances that would warrant disapproval of the initial request for approval.

Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial (Penal Code § 70(e)(3)).

1040.2.1 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment permit may be revoked or suspended under the following circumstances:

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(a) Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief of Police may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit

(b) Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline

(c) If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of department policy, the permit may be suspended or revoked

(d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment permit may be subject to similar restrictions as those applicable to the employee's full time duties until the employee has returned to a full duty status

1040.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

(a) Involves the employee’s use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage

(b) Involves the employee’s receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee’s duties as a member of this department

(c) Involves the performance of an act in other than the employee’s capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department

(d) Involves time demands that would render performance of the employee’s duties for this department less efficient

1040.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

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Any private organization, entity or individual seeking special services for security or traffic control from members of this department must submit a written request to the Chief of Police in advance of the desired service. Such outside hired extra overtime assignments will be assigned, monitored and paid through the Department.

(a) The applicant will be required to enter into an indemnification agreement prior to approval.

(b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.

(c) Should such a request be approved, any employee working outside hired extra overtime shall be subject to the following conditions:

1. The officer(s) shall wear the departmental uniform/identification.
2. The officer(s) shall be subject to the rules and regulations of this department.
3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.
4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
5. Outside security services shall not be subject to the collective bargaining process.
6. No officer may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief of Police.

1040.3.2 HIRED EXTRA OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official police action while working in an approved hired extra overtime assignment shall be required to complete all related reports in a timely manner pursuant to department policy. Time spent on the completion of such reports shall be considered incidental to the hired extra overtime assignment.

1040.3.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Division Commander, undercover officers or officers assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity which might reasonably disclose the officer's law enforcement status.

1040.4 DEPARTMENT RESOURCES

Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this department or other agencies through the use of the employee’s position with this department.

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1040.4.1 REVIEW OF FINANCIAL RECORDS

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126). Prior to providing written approval for an outside employment position, the Department may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work permit. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work permit may be revoked pursuant to the Revocation/Suspension of Outside Employment Permits section of this policy.

1040.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

The Chief of Police may, once every twelve (12) months, require any employee to provide information regarding the status of his/her outside employment.

If an employee terminates his or her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief of Police through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

1040.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor’s orders, and make a recommendation to the Chief of Police whether such outside employment should continue.

In the event the Chief of Police determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

(a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the City's professional medical advisors.

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(b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.

(c) The employee's failure to make timely notice of their intentions to their supervisor.

When the disabled member returns to full duty with the Newport Beach Police Department, a request (in writing) may be made to the Chief of Police to restore the permit.

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Occupational Disease and Work-Related Injury Reporting

1042.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the timely reporting of occupational diseases, mental health issues, and work-related injuries.

1042.1.1 DEFINITIONS

Definitions related to this policy include:

Occupational disease or work-related injury - An injury, disease, or mental health issue arising out of employment (Labor Code § 3208; Labor Code § 3208.3; Labor Code § 3212 et seq.).

1042.2 POLICY

The Newport Beach Police Department will address occupational diseases and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (Labor Code § 3200 et seq.).

1042.2.1 INJURIES REQUIRING MEDICAL CARE

All work-related injuries and work-related illnesses requiring medical care must be reported to Human Resources and a claim form shall be provided to the injured employee within 24 hours from the time the injury was discovered, excluding weekends and holidays.

1042.2.2 ACCIDENT DEFINED

Accident - is defined as any occurrence from which bodily injury or property damage may result, regardless of whether any injury or damage actually does occur (e.g., exposure where no immediate injury is apparent).

1042.2.3 EMPLOYEE'S RESPONSIBILITY

Any employee sustaining a work-related injury or illness that requires relief from duty is also required to comply with Departmental policies and directives relating to the duty and to periodically call in during absences, as well as the duty to notify the Department of any change in condition or anticipated duration of the absence.

When appropriate, an employee being treated for an on-duty injury should inform the attending physician that a modified duty assignment may be available at the Department. Temporary Modified Duty Assignments may be available for the employees whose injuries prevent resumption of regular duties.

An injured employee, or employee who has suffered a work-related illness, shall report as soon as practical to his/her immediate supervisor the medical findings concerning the injury and the extent and duration of any work restrictions, if they are known. In addition, such employees are required to promptly submit all medical releases, whether partial or full releases, to their supervisor.

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1042.2.4 SUPERVISOR'S RESPONSIBILITY

A supervisor learning of any work-related injury, illness, or accident shall promptly provide the reporting employee with a State of California Workers' Compensation Form.

If the employee requires/requests medical treatment and/or returns the DWC 1 Form, the following forms will be completed:

- Employee Injury/Accident Report
- Physician Referral and Report
- Supervisor Supplemental Questionnaire

Updated copies of forms with instructions for completion, provided by Human Resources, are maintained in the Watch Commander's Office.

For work-related accidents, injuries or illness not requiring professional medical care, an Employee Injury/Accident Report form shall be completed in triplicate. All copies of the completed form shall be forwarded to the supervisor's Division Commander through the chain of command.

When an accident, injury, or illness is reported initially on the Employee Injury/Accident Report form and the employee subsequently requires professional medical care, the State of California Employer's Report of Occupational Injury or Illness form shall then be completed. The injured employee shall also sign the form in the appropriate location.

Every injured employee must be provided with an Employee's Claim for Workers' Compensation Form (DWC-1) within 24 hours, regardless of the nature of illness or injury.

Copies of any reports documenting the accident or injury should be forwarded to the Division Commander as soon as they are completed.

WITNESS STATEMENTS

CITIZEN WITNESS. When a citizen witnesses an injury to an on-duty employee, the investigating supervisor shall interview the citizen and then report the citizen's statement on an Employee's Report [15.7].

EMPLOYEE WITNESS. When one employee witnesses an injury to another (on-duty) employee, the witnessing employee shall report his or her observations on an Employee's Report [15.7].

NOTIFICATION OF RELATIVES

In the event an employee is injured on duty and requires hospitalization, the decision to notify relatives shall be made by:

- The injured employee; or
- The Watch Commander, if in his or her opinion the injured employee is unable to make a rational decision concerning notification

TREATMENT

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The supervisor of an employee who suffers an on-duty injury shall:

- Complete the upper portion of the Physician Referral and Report form and send it with the injured employee to the specified medical facility
- Ensure that the injured employee does not return to duty until the designated physician documents on the Physician Referral and Report form the employee's status and medical recommendations
- If the employee returns to work but later suffers a re-aggravation of the original injury, ensure that the employee is referred to his or her treating workers' compensation doctor of record by way of another Physician Referral and Report form or through the City's Third Party Administrator for Workers' Compensation, Corvel

1042.2.5 DIVISION COMMANDER RESPONSIBILITY

The Division Commander receiving a report of a work-related accident or injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Chief of Police.

If an employee sustains a work-related injury or illness that requires relief from duty, the employee's Division Commander will designate a supervisor to contact the injured employee weekly and complete a Weekly Follow-Up Contact form (NBPD 2.26).

1042.2.6 CHIEF OF POLICE RESPONSIBILITY

The Chief of Police shall review and forward copies of the report to the Human Resources Department and retain one copy in the employee's personnel file.

1042.3 INJURY NOT REQUIRING MEDICAL ATTENTION

Those injuries and illnesses not requiring medical attention shall be recorded on an Employee Injury/Accident Report form. This form shall be completed and signed by a supervisor.

This form shall be signed by the affected employee, indicating that he/she desired no medical attention at the time of the report. By signing this form, the employee will not preclude his/her ability to seek medical attention later. The Employee Injury/Accident form will be maintained in the employee's department file.

1042.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or work-related injury shall report such event as soon as practicable, but within 24 hours, to a supervisor, and shall seek medical care when appropriate (8 CCR 14300.35).

1042.4 SETTLEMENT OF INJURY CLAIMS

Occasionally, an employee's work-related injury results from the negligent or wrongful acts of another, for which the employee, the City, and/or other insurers are entitled to recover civilly. To ensure that the City's interests are protected and that the employee has the benefit of the City's experience in these matters, the following procedure is to be followed:

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1042.4.1 EMPLOYEE TO REPORT FILING OF LEGAL ACTION

In the event any employee who has received or is receiving any workers' compensation benefits (industrial accident leave, medical care, etc.) files a civil action against a third party for allegedly causing or contributing to the cause of the injury/illness, the employee is required to notify the Risk Manager of the filing of such legal action.

1042.4.2 NO SETTLEMENT WITHOUT PRIOR APPROVAL

In the event any employee who has received or is receiving any workers compensation benefits (industrial accident leave, medical care, etc.)is approached by such person or an agent, insurance company, or attorney and offered a settlement of claims, that employee shall take no action other than to notify the Risk Manager as soon as possible. The purpose of such notice to permit the City to determine whether or not the offered settlement will affect any claim the City may have regarding payment for damage(s) to equipment or reimbursement for wages against the person who caused the accident or injury and to protect the City's right of subrogation, while ensuring that the employee's rights to receive compensation for injuries are not affected.

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Personal Appearance Standards

1044.1 PURPOSE AND SCOPE

In order to project uniformity and neutrality toward the public and other members of the department, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment.

1044.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

1044.2.1 HAIR

Hairstyles of all members shall be neat in appearance and of a natural color. For male sworn members, hair must not extend below the top edge of the uniform collar while assuming a normal stance.

For female sworn members, hair must be no longer than the horizontal level of the bottom of the uniform patch when the employee is standing erect, worn up or in a tightly wrapped braid or ponytail.

Hairstyles shall not interfere with vision or the proper wearing of authorized headgear.

1044.2.2 MUSTACHES

A short and neatly trimmed mustache may be worn. Mustaches shall not extend below the corners of the mouth or beyond the natural hairline of the upper lip.

1044.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

1044.2.4 FACIAL HAIR

Facial hair other than sideburns, mustaches and eyebrows shall not be worn, unless authorized by the Chief of Police or his or her designee.

1044.2.5 FINGERNAILS

Fingernails extending beyond the tip of the finger can pose a safety hazard to officers or others. For this reason, fingernails shall be trimmed so that no point of the nail extends beyond the tip of the finger.

1044.2.6 JEWELRY AND ACCESSORIES

No jewelry or personal ornaments shall be worn by officers on any part of the uniform or equipment, except those authorized within this manual. Jewelry, if worn around the neck, shall not be visible above the shirt collar.

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Female uniformed sworn employees may wear one pair of stud earrings. Only one ring may be worn on each hand of the employee while on-duty. Employees shall not wear any facial jewelry while on-duty or when wearing any part of the employee's uniform, including tongue jewelry that is visible or affects the employee's speech.

1044.3 TATTOOS AND BRANDINGS

While on-duty or representing the Department in any official capacity, employees shall not display any tattoos or brandings. All visible tattoos and brandings shall be covered by an approved uniform.

Sworn employees assigned to specialized units may display visible tattoos while working in an undercover capacity.

Exemption

Employees hired prior to September 1, 2005 may apply for a partial exemption to this policy for tattoos and brandings that the employee had prior to September 1, 2005 under the following conditions:

- The tattoos or brandings must be on the arm below the end of the short sleeve uniform shirt and above the wrist.
- Exempted tattoos and brandings shall not detract from the professional image or neat appearance of police employees for the City of Name of your jurisdiction:.
- Exempted tattoos and brandings shall not depict material that is discriminatory, offensive or derogatory based upon race, gender, ethnicity or religion, or that is obscene or sexually oriented.

Exemptions may only be granted by the Chief of Police who has the sole discretion and authority to determine which tattoos or brandings will be exempted. Pictures of exempted tattoos or brandings will be placed in the employee's personnel file in order to insure that those exemptions are accurately documented.

1044.4 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

(a) Tongue splitting or piercing.

(b) The complete or transdermal implantation of any material other than hair replacement.

(c) Abnormal shaping of the ears, eyes, nose or teeth

(d) Branding or scarification.

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1044.5 EXEMPTIONS

Members who seek cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code § 12926). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief of Police should be advised any time a request for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a safety or security risk.

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Uniform Regulations

1046.1 PURPOSE AND SCOPE

The uniform policy of the Newport Beach Police Department is established to ensure that uniformed officers will be readily identifiable to the public through the proper use and wearing of department uniforms. Employees should also refer to the following associated Policy Manual sections:

Section 700 - Department Owned and Personal Property

Section 1024 - Safety Equipment

Section 1044 - Personal Appearance Standards

The Uniform and Equipment Specifications manual is maintained and periodically updated by the Chief of Police or his/her designee. That manual should be consulted regarding authorized equipment and uniform specifications.

1046.1.1 UNIFORM COMMITTEE

The Uniform Committee is comprised of the Chief of Police and the division commanders. The Uniform Committee must evaluate and approve any proposal for an additional or an altered uniform item prior to the item's being approved for use.

1046.1.2 REQUESTS FOR NEW UNIFORMS OR FIELD EQUIPMENT

Requests for new uniforms or field equipment shall conform to the following procedure:

REQUESTING EMPLOYEE'S RESPONSIBILITIES

When an employee needs a new uniform or equipment item due to the unserviceability of the one in current use, that officer shall:

- Visit the Galls' Uniform website (https://newportbeachpd.galls.com), where the employee's account has been set up by the Support Services Division.
- Order the appropriate uniform/equipment needed, that's not already stored at the police department.
- The employee's submitted order will be approved by the Personnel/Training Sergeants and delivered via the selected method.
- Upon replacement, turn in the unserviceable item to the Station Officer

1046.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Police employees wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose to identify the wearer as a source of assistance in an emergency, crisis, or other time of need.

(a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean, and appear professionally pressed.

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(b) All peace officers of this department shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.

(c) Personnel shall wear only the uniform specified for their rank and assignment (Penal Code § 13655).

(d) The uniform is to be worn in compliance with the specifications set forth in the department's uniform specifications that are maintained separately from this policy.

(e) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.

(f) Personnel shall, upon terminating employment with the Department, return all department-owned property to the Personnel and Training Sergeant.

(g) Civilian attire shall not be worn in combination with any distinguishable part of the uniform.

(h) Uniforms are only to be worn while on duty, while in transit to or from work, for court, or at other official department functions or events.

(i) If the uniform is worn while in transit, an outer garment shall be worn over the uniform shirt so as not to bring attention to the employee while he/she is off-duty.

(j) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform, including the uniform pants.

(k) Mirrored sunglasses will not be worn with any Department uniform.

(l) Visible jewelry, other than those items listed below, shall not be worn with the uniform unless specifically authorized by the Chief of Police or the authorized designee.

1. Wrist watch
2. Wedding ring, class ring, or other ring of tasteful design. A maximum of one ring/ set may be worn on each hand
3. Medical alert bracelet

1046.2.1 DEPARTMENT ISSUED IDENTIFICATION

The Department issues each employee an official department identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty or when carrying a concealed weapon.

(a) Whenever on duty or acting in an official capacity representing the department, employees shall display their department issued identification in a courteous manner to any person upon request and as soon as practical.

(b) Officers working specialized assignments may be excused from the possession and display requirements when directed by their Division Commander.

In the event it becomes necessary to replace an identification card, the employee shall:

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- Complete an Employee's Report (15.7) explaining why a new card is needed. Note: If the original card was lost or stolen, the appropriate crime or lost report shall be completed and a copy attached to the Employee's Report.
- Forward the reports to the Chief of Police for consideration
- Obtain written authorization from the Chief of Police for a replacement card
- Surrender any current identification card to the Support Services Division Commander upon receipt of a replacement card.

1046.3 UNIFORM CLASSES

1046.3.1 CLASS A UNIFORM

The Class A uniform is to be worn on special occasions such as funerals, graduations, ceremonies, or as directed. The Class A uniform is required for all sworn personnel. The Class A uniform includes the standard issue uniform with:

(a) Long sleeve shirt with black tie and tie bar

(b) Trousers

(c) Hat

(d) Black polished shoes

(e) Approved all black unpolished shoes may be worn (e.g. Corfam shoes)

(f) Black or navy blue socks (unless hidden by boots, or the officer submits a written doctor's statement prescribing white socks)

Boots with pointed toes are not permitted.

1046.3.2 CLASS B UNIFORM

All officers will possess and maintain a serviceable Class B uniform at all times.

The Class B uniform will consist of the same garments and equipment as the Class A uniform with the following exceptions:

(a) The long or short sleeve shirt may be worn with the collar open. No tie is required

(b) For personnel wearing dark blue, black or green/olive drab (OD) a black crew neck t-shirt must be worn with the uniform shirt or polo. For personnel wearing any other color uniform, a white crew neck t-shirt must be worn.

(c) All shirt buttons must remain buttoned except for the last button at the neck

(d) Shoes for the Class B uniform may be as described in the Class A uniform

(e) Approved all black unpolished shoes may be worn (e.g. Corfam shoes)

(f) Boots with pointed toes are not permitted

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1046.3.3 CLASS B UNIFORM WITH SHORTS - POLICE OFFICER SPECIFICATIONS
The Class B uniform with shorts is approved for field wear between May 1st and September 30th, however, this period may be extended at the discretion of the Patrol/Traffic Division Commander. This uniform is identical to the Standard Class B Uniform except for the following three items:

- Trousers - In lieu of trousers, officers may wear uniform shorts meeting the following specifications:
  (a) 1X Blauer Shorts, #8841, stretch cotton blend, Dark Navy
  (b) Shorts shall be relatively loose fitting and shall not be altered so as to be higher than eight inches above the center of the knee cap
  (c) Other brands/styles may be acceptable; however, they must be submitted to the Patrol/Traffic Division Commander, and approved, before use. The Patrol/Traffic Division Commander will maintain a list of approved brands/styles
- Shoes shall be all black tennis shoes, low cut with no striping or significant brand markings from the manufacturer
- Socks shall be athletic ankle socks, all black in color with no ribbing. The top shall terminate at the ankle and will not sag or have any colored striping or trim

Uniforms consisting of approved uniform shorts and tennis shoes shall only be worn during Day Watch assignments.

1046.3.4 SPECIALIZED UNIT UNIFORMS
The Chief of Police may authorize special uniforms to be worn by officers in specialized units such as Canine Team, SWAT, Bicycle Patrol, Motor Officers and other specialized assignments.

1046.3.5 FOUL WEATHER GEAR
The Uniform and Equipment Specifications lists the authorized uniform jacket and rain gear.

1046.4 INSIGNIA AND PATCHES

(a) Shoulder Patches - The authorized shoulder patch supplied by the Department shall be machine stitched to the sleeves of all uniform shirts and jackets, three-quarters of an inch below the shoulder seam of the shirt and be bisected by the crease in the sleeve.

(b) Service stripes, stars, etc. - Service stripes and other indicators for length of service may be worn on long sleeved shirts and jackets. They are to be machine stitched onto the uniform. The bottom of the service stripe shall be sewn the width of one and one-half inches above the cuff seam with the rear of the service stripes sewn on the dress of the sleeve. The stripes are to be worn on the left sleeve only.

(c) The regulation nameplate, or an authorized sewn on cloth nameplate, shall be worn at all times while in uniform. The nameplate shall display the employee's first initial and last name. If the employee desires other than the legal first name, the employee must receive approval from the Chief of Police. The nameplate shall be worn directly above and parallel to the top edge of the right breast pocket. The nameplate shall be centered above the right breast pocket.

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(d) When a jacket is worn, the nameplate or an authorized sewn on cloth nameplate shall be affixed to the jacket in the same manner as the uniform.

(e) Assignment Insignias - Assignment insignias, (SWAT, CNT, DRE and FTO) may be worn as designated by the Chief of Police in both Class A and Class B uniforms. These pins shall be worn centered on the right breast pocket just below the employee's nameplate. If the employee has more than one assignment designation, the next consecutive insignia needs to be placed linear to the right or left of the original, and oriented at center.

(f) Award Pins - Award Pins (Valor, Merit, Lifesaving, 23152, 10851, City Years of Service) shall only be worn while in a Class A uniform. These insignias shall be attached to the left breast pocket just below the Officer's badge. The pins should be centered and linear as best as possible.

(g) Flag Pin - A flag pin may be worn, centered above the nameplate.

(h) Badge - The department issued badge, or an authorized sewn on cloth replica, must be worn and visible at all times while in uniform.

(i) Rank Insignia - The designated insignia indicating the employee's rank must be worn at all times while in uniform. The Chief of Police may authorize exceptions.

1046.4.1 MOURNING BADGE

Uniformed employees shall wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

(a) An officer of this department - From the time of death until midnight on the 14th day after the death.

(b) An officer from this or an adjacent county - From the time of death until midnight on the day of the funeral.

(c) Funeral attendee - While attending the funeral of an out of region fallen officer.

(d) National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.

(e) As directed by the Chief of Police.

1046.5 CIVILIAN ATTIRE

There are assignments within the Department that do not require the wearing of a uniform because recognition and authority are not essential to their function. There are also assignments in which the wearing of civilian attire is necessary.

(a) All employees shall wear clothing that fits properly, is clean and free of stains, and not damaged or excessively worn.

(b) All male administrative, investigative and support personnel who elect to wear civilian clothing to work shall wear button style shirts with a collar, slacks or suits that are moderate in style.

(c) All female administrative, investigative, and support personnel who elect to wear civilian clothes to work shall wear dresses, slacks, shirts, blouses, or suits which are moderate in style.

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(d) The following items shall not be worn on duty:

1. T-shirt alone
2. Open toed sandals or thongs
3. Swimsuit, tube tops, or halter-tops
4. Spandex type pants or see-through clothing
5. Distasteful printed slogans, buttons or pins

(e) Variations from this order are allowed at the discretion of the Chief of Police or designee when the employee's assignment or current task is not conducive to the wearing of such clothing.

(f) No item of civilian attire may be worn on duty that would adversely affect the reputation of the Newport Beach Police Department or the morale of the employees.

1046.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief of Police, Newport Beach Police Department employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the Newport Beach Police Department to do any of the following (Government Code §§ 3206 and 3302):

(a) Endorse, support, oppose, or contradict any political campaign or initiative.

(b) Endorse, support, oppose, or contradict any social issue, cause, or religion.

(c) Endorse, support, or oppose, any product, service, company or other commercial entity.

(d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

1046.7 OPTIONAL EQUIPMENT - MAINTENANCE, AND REPLACEMENT

(a) Any of the items listed in the Uniform and Equipment Specifications as optional shall be purchased totally at the expense of the employee. No part of the purchase cost shall be offset by the Department for the cost of providing the Department issued item.

(b) Maintenance of optional items shall be the financial responsibility of the purchasing employee. For example, repairs due to normal wear and tear.

(c) Replacement of items listed in this order as optional shall be done as follows:

1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.
2. When the item is no longer functional because of damage in the course of the employee's duties, it shall be replaced following the procedures for the replacement of damaged personal property. (Policy Manual § 700)

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1046.7.1 RETIREE BADGES

The Chief of Police may issue identification in the form of a badge, insignia, emblem, device, label, certificate, card or writing that clearly states the person has honorably retired from the Newport Beach Police Department. This identification is separate and distinct from the identification authorized by Penal Code § 25455 and referenced in the Retired Officer CCW Endorsement Policy in this manual.

A badge issued to an honorably retired peace officer that is not affixed to a plaque or other memento will have the words “Honorably Retired” clearly visible on its face. A retiree shall be instructed that any such badge will remain the property of the Newport Beach Police Department and will be revoked in the event of misuse or abuse (Penal Code § 538d).

1046.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Newport Beach Police Department employees may not wear any uniform item, accessory or attachment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

Newport Beach Police Department employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

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Police Cadets

1048.1 PURPOSE AND SCOPE

Cadets work under direct supervision, perform a variety of routine and progressively more advanced tasks in an apprenticeship program in preparation for a career in law enforcement.

1048.2 EDUCATION REQUIREMENTS

Cadets are required to maintain a minimum grade point average of 2.0 ("C" grade) for all courses taken. Cadets shall complete six semester units of college course work per semester and senior cadets shall complete 12 units per semester.

1048.3 PROGRAM COORDINATOR

The personnel and Training Supervisor will serve as the Program Coordinator. This supervisor will be responsible for tracking the educational and job performance of cadets as well as making their individual assignments throughout the Department. He/she will also monitor the training provided for all cadets and review all decisions affecting job assignments,status for compensation, school attendance and performance evaluations.

1048.3.1 PROGRAM ADVISORS

The Program Coordinator may select individual officers to serve as advisors for the Cadet Program. These officers will serve as mentors for each cadet. Cadets will bring special requests, concerns, and suggestions to their program advisor for advice or direction before contacting the Program Coordinator. One advisor may be designated as the Coordinator's assistant to lead scheduled meetings and training sessions involving the cadets. Multiple cadets may be assigned to each program advisor. Program advisors are not intended to circumvent the established chain of command. Any issues that may be a concern of the individual's supervisor should be referred back to the Program Coordinator.

1048.4 ORIENTATION AND TRAINING

Newly hired cadets will receive an orientation of the organization and facilities before reporting to their first assignment. On-the-job training will be conducted in compliance with the Cadet Training Manual. Training sessions will be scheduled as needed to train cadets for as many assignments as possible. In addition to job-specific training, information will be offered to prepare cadets to compete successfully in the police officer selection process, as well as the academy training. All training will focus on improving job performance, as well as preparation to become police officers. These meetings will also offer an opportunity to receive continuous feedback regarding progress of the program.

1048.5 CADET UNIFORMS

Each cadet will be provided two uniforms meeting the specifications described in the Uniform Manual for civilian employees.

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1048.6 ROTATION OF ASSIGNMENTS

Rotating job assignments should occur on a regular basis to enhance the career development for each cadet. Department needs and concerns will take precedence over individual considerations with the final decision resting with the Personnel and Training supervisor.

In general, senior cadets will be assigned to positions requiring more technical skill or responsibility, as well as serving to train cadets for new assignments or those newly hired.

1048.7 RIDE-ALONG PROCEDURES

All cadets are authorized to participate in the Ride-Along Program on their own time and as approved by their immediate supervisor and the appropriate Watch Commander. Applicable waivers must be signed in advance of the ride-along. Cadets shall wear their uniform while participating on a ride-along.

1048.8 PERFORMANCE EVALUATIONS

Performance evaluations for all cadets shall be completed monthly during their first year on probation. Upon successful completion of probation, cadets and senior cadets will be evaluated on a yearly basis to assess their current job performance and their potential as police officers.

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Nepotism and Conflicting Relationships

1050.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this department. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

1050.1.1 DEFINITIONS

Business relationship - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture or other transaction, where the Department employee's annual interest, compensation, investment or obligation is greater than $250.

Conflict of interest - Any actual, perceived or potential conflict of interest in which it reasonably appears that a department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

Nepotism - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

Personal relationship - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

Public official - A supervisor, officer or employee vested with authority by law, rule or regulation or to whom authority has been delegated.

Relative - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

Subordinate - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

Supervisor - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

1050.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940):

(a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

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1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.

(b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.

(c) Whenever possible, FTOs and other trainers will not be assigned to train relatives. FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.

(d) To avoid actual or perceived conflicts of interest, members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.

(e) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender or who engages in serious violations of state or federal laws.

1050.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved, immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify dispatch to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

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1050.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief of Police of such actual or potential violations through the chain of command.

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Department Badges

1052.1 PURPOSE AND SCOPE

The Newport Beach Police Department badge and uniform patch as well as the likeness of these items and the name of the Newport Beach Police Department are property of the Department and their use shall be restricted as set forth in this policy.

1052.2 POLICY

The uniform badge shall be issued to department members as a symbol of authority and the use and display of departmental badges shall be in strict compliance with this policy. Only authorized badges issued by this department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

1052.2.1 FLAT BADGE

Flat badges will be issued to all sworn officers and ownership of the badges will rest with the Department. The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge.

(a) Upon separation from service with the Department, all officers will surrender the flat badge along with all other Department issued equipment.

(b) Should the flat badge become lost, damaged, or otherwise removed from the officer's control, he/she shall make the proper notifications as outlined in the Department Owned and Personal Property Policy.

(c) If an officer is promoted, the officer shall exchange the flat badge for one reflecting the proper rank.

(d) The purchase, carrying or display of a Department flat badge is not authorized for non-sworn personnel.

1052.2.2 CIVILIAN PERSONNEL

Badges and departmental identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Parking Control, Dispatcher).

(a) Non-sworn personnel shall not display any department badge except as a part of his/her uniform and while on duty, or otherwise acting in an official and authorized capacity.

(b) Non-sworn personnel shall not display any department badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

1052.2.3 RETIREE FLAT BADGE

Any sworn officer who receives an honorable PERS service or disability retirement, and who was continuously employed by the Department for a period of ten years or more, shall be issued a

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"retired" flat badge. The badge shall indicate the rank at which the employee retired and shall indicate "retired" in place of the badge number. It is intended that the retiree flat badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

1052.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and civilian uniformed employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, uniform patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief of Police.

Employees shall not loan his/her department badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

1052.4 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the department badge shall not be used without the expressed authorization of the Chief of Police and shall be subject to the following:

(a) The employee associations may use the likeness of the department badge for merchandise and official association business provided they are used in a clear representation of the association and not the Newport Beach Police Department. The following modifications shall be included:

1. The text on the upper and lower ribbons is replaced with the name of the employee association.
2. The badge number portion displays the acronym of the employee association.

(b) The likeness of the department badge for endorsement of political candidates shall not be used without the expressed approval of the Chief of Police.

1052.5 DETECTIVE BADGES

Sworn personnel serving in full-time Detective Division or Traffic Investigator assignments shall have the option of purchasing, at their own expense, a temporary "Detective" badge to be used for the duration of their assignment. These badges may be utilized in lieu of the issued "Police Officer" badge(s) whenever the employee is performing within the scope of his/her "Detective" assignment.

(a) The "Detective" badge(s) shall display the employee's I.D. number.

(b) The "Detective" badge shall not be worn when the employee is working a uniform assignment.

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(c) During the employee's "Detective" assignment, it is the responsibility of the employee to retain their "Police Officer" badge for use during any uniformed assignments.

(d) The employee shall have the option of purchasing a separate "Detective" flat badge to be used in lieu of their department issued "Police Officer" flat badge. The "Detective" flat badge may be purchased separately or in combination with the "Detective" badge. All rules governing the use of the "Detective" badge shall apply to the use of the "Detective" flat badge.

(e) Upon returning to a non-detective assignment, the employee shall deliver the "Detective" badge and/or flat badge to the Support Services Division for storage in the Property room, until such time the employee returns to another "Detective" assignment, or obtains a service or disability retirement.

(f) Upon receiving either an honorable service or disability retirement, the employee shall complete a written request to the Support Services Division Commander requesting to receive their "Detective" badge(s) from the Property room. Upon receipt of the "Detective" badge(s), an agreement will be signed by the employee acknowledging they are required to use the badge(s) only as private memorabilia, as other uses of the badge(s) may be unlawful or in violation of this policy.

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Temporary Modified-Duty Assignments

1054.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, City rules, current memorandums of understanding, or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability or limitation that is protected under federal or state law.

1054.2 POLICY

Subject to operational considerations, the Newport Beach Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

1054.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the California Fair Employment and Housing Act (Government Code § 12940 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Newport Beach Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle or engaging in outside employment, or may otherwise limit them in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

1054.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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Employees seeking a temporary modified-duty assignment should submit a written request to their Division Commanders or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

(a) An assessment of the nature and probable duration of the illness or injury.

(b) The prognosis for recovery.

(c) The nature and scope of limitations and/or work restrictions.

(d) A statement regarding any required workplace accommodations, mobility aids or medical devices.

(e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Division Commander will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Personnel Department or the City Attorney as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Watch Commander or Division Commander, with notice to the Chief of Police.

1054.4.1 MODIFIED-DUTY SCHEDULES

The schedules of employees assigned to modified duty may be adjusted to suit medical appointments or Department needs at the discretion of the Division Commander.

The employee and his/her supervisors should be informed in writing of the schedule, assignment and limitations and restrictions as determined by the employee's health care provider.

1054.4.2 ACCOUNTABILITY

The employee's supervisor shall coordinate efforts to ensure proper time accountability.

(a) Employees on modified duty are responsible for coordinating required doctor visits and physical therapy appointments in advance with their supervisor to appropriately account for any duty time taken. Doctor visits and appointments for treatment of injuries or illnesses that are work related shall be arranged according to the employee's particular MOU. Doctor visits and appointments for treatment of injuries or illnesses that are not work related shall be arranged during off-duty time or otherwise charged employee leave time.

(b) Employees shall promptly submit a status report for each visit to their treating health care provider and shall immediately notify their supervisor of any change in restrictions or limitations as determined by their health care provider. An employee assigned to a modified-duty assignment shall provide a duty status report to their supervisor no less than once every 30 days while the employee is on modified duty.

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(c) Supervisors shall keep the Division Commander apprised of the employee's status and ability to perform the modified-duty assignment. Modified-duty assignments that extend beyond 60 days will require a written status report and a request for an extension to the Division Commander with an update of the employee's current status and anticipated date of return to regular duty. Extensions require approval of the Chief of Police.

(d) When it is determined that an employee on modified duty will return to regular duty, the supervisor shall notify the Division Commander. All training and certification necessary for return to duty shall be reviewed and updated as necessary.

1054.4.3 MEDICAL EXAMINATIONS

The Department reserves the right to require, prior to returning to full-duty status, a fitness-for-duty examination of any employee assigned to a modified-duty assignment or of any employee having been on such assignment. Such examinations shall be at the expense of the Department.

Prior to returning to full-duty status, employees shall be required to provide a statement signed by their health care provider indicating that they are medically cleared to perform the basic and essential job functions of their assignment without restriction or limitation.

1054.5 ACCOUNTABILITY

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee’s medical appointments, as mutually agreed upon with the Division Commander.

1054.5.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

(a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.

(b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.

(c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.

(d) Submitting a written status report to the Division Commander that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

1054.5.2 SUPERVISOR RESPONSIBILITIES

The employee’s immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

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The responsibilities of supervisors shall include, but not be limited to:

(a) Periodically apprising the Division Commander of the status and performance of employees assigned to temporary modified duty.

(b) Notifying the Division Commander and ensuring that the required documentation facilitating a return to full duty is received from the employee.

(c) Ensuring that employees returning to full duty have completed any required training and certification.

1054.6 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

1054.7 PREGNANCY

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth, or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment. Nothing in this policy limits a pregnant employee's right to a temporary modified-duty assignment if required under Government Code § 12945.

If notified by an employee or the employee's representative regarding limitations related to pregnancy, childbirth, or related medical conditions, the Department should make reasonable efforts to provide an accommodation for the employee in accordance with federal and state law. The accommodation should be provided without unnecessary delay, as appropriate (42 USC § 2000gg-1; 29 CFR 1636.3; 29 CFR 1636.4; Government Code § 12945).

1054.7.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City’s personnel rules and regulations regarding family and medical care leave.

1054.8 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment may have their probation extended by a period of time equal to their assignment to temporary modified duty.

1054.9 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification,

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training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

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Peer Support Program

1058.1 PURPOSE AND SCOPE

The Newport Beach Police Department recognizes the value of providing immediate and on-going assistance to employees and their family members during times of both professional and personal crises. The purpose of this policy is to establish guidelines that facilitate the use of the Peer Support Program.

The Peer Support Team may be utilized to support and work in cooperation with peer support teams from outside agencies and/or other City Departments.

1058.2 DEFINITION

The Peer Support Program offers assistance and appropriate support resources to employees when personal or professional problems negatively affect their work performance, family unit or self. This program is designed to:

(a) Provide emotional support during and after times of personal or professional crisis to Department employees who need assistance;

(b) Promote trust, allow anonymity and preserve confidentiality for persons using Peer Support within the guidelines of the program;

(c) Develop members who can identify personal conflicts and provide guidance and/or referral to professional/alternate resources as required;

(d) Maintain an effective peer support training and response program;

(e) Check on the well-being of employees out with illnesses or IOD's and provide support where desired and needed.

1058.3 MISSION STATEMENT

The role of the Newport Beach Police Department Peer Support Team is to be available to support, assist and refer employees and family members to resources during difficult times in their personal and professional lives. This includes everything from critical incidents to everyday stress and anxiety.

1058.4 ACCESSING PEER SUPPORT

The Peer Support Team is available 24 hours a day, 7 days a week to all employees. Peer Support Team member information can be accessed via POLICENET, as well as on brochures posted throughout the station.

1058.5 POLICY

The Peer Support Team is intended to be a resource available to the Department in the event of critical incident or crisis situation. Peer Support personnel will be available to:

(a) Support employees after a critical incident or crisis situation;

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(b) Facilitate or assist a behavioral health specialist in diffusing critical incidents;

(c) Respond to an employee's request for peer support or assistance;

(d) Organize and schedule Critical Incident Stress Management (CISM) debriefings;

(e) Provide information and/or referrals on other resources available (Employee Assistance Program, The Counseling Team International, Support Groups, etc.);

f) Provide Peer Support orientation to new employees (FTO program).

It may occur that a peer supporter is assisting an individual who is, or becomes the subject of a disciplinary investigation. A peer supporter's role in disciplinary situations should be one of support and assisting individuals through the stress they may face during the disciplinary process. Peer supporters shall not discuss the details of an investigation with any involved employee(s) and should avoid any conflicts of interest.

1058.6 CRITICAL INCIDENTS

A "critical incident" is any event that causes an unusually intense stress reaction. The distress people experience after a critical incident could limit their ability to cope, impair their ability to adjust and/or negatively impact their work environment.

Critical Incidents that may require a Peer Support response may include, but are not limited to:

(a) Officer involved shootings;

(b) Employee death or serious injury;

(c) Where an employee is a witness to a violent death or serious injury;

(d) Infant/child death;

(e) Major disaster or mass casualty incident;

(f) Any incident that attracts unusually heavy media attention;

(g) Any incident that is likely to affect the employee's ability to interact with the public and carry out their job functions.

1058.7 DEFUSING AND DEBRIEFING

A defusing and debriefing will be facilitated by Peer support personnel as soon as practical after a critical incident. The purpose of a defusing is to offer support and information, allow initial ventilation of reactions, establish a need for a formal debriefing and stabilize members so they can go home or return to service. A defusing may eliminate the need for a formal debriefing or it may enhance the formal debriefing process. The Peer Support Team Coordinator will determine the need for a debriefing.

Debriefings are specially structured group meetings between the persons directly involved with a critical incident, two to three Peer Support Team members and a certified CISM mental health professional. Debriefings are most effective when performed within 24 to 96 hours after an incident. A Chaplain is optional but is highly recommended.

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1058.8 CONFIDENTIALITY

The acceptance and success of the Newport Beach Police Department Peer Support Program will be determined in part by the observance of confidentiality. It is imperative each Peer Support Team Member maintain strict confidentiality of all information learned about an individual within the guidelines of this program.

All conversations between Peer Support personnel and employees are not privileged communications under the Evidence Code. The department will respect the confidentiality of conversations between Peer Support personnel and employees, with the following exceptions:

(a) Information concerning the commission of a crime;

(b) The employee or a third party is a danger to themselves or to others.

Disclosures under this exception will be made directly to the Chief of Police or a Division Commander.

1058.9 TEAM STRUCTURE

The leadership structure of the Peer Support Program shall be as follows:

Program Coordinator – The Program Coordinator should be the rank of Sergeant or higher. The Program Coordinator shall be responsible for Peer Support Team budget and coordination of the Peer Support Team. The Program Coordinator will report directly to the Support Services Commander.

Program Advisor – The Program Advisor will be a licensed Psychologist with experience in dealing with police and/or first responder issues. His/her duties shall consist of:

(a) Assist in training and selection of Peer Support Team Members;

(b) Provide continued training in the techniques of peer counseling;

(c) Conduct debriefings and provide guidance after a critical incident.

Peer Support Team Leader – The Program Coordinator will appoint a Peer Support Team Leader. The Team Leader will oversee the day to day operations of the Peer Support Team. The Team Leader will report to directly to the Program Coordinator.

Peer Support Team Members – Peer Support Team Members shall be comprised of both sworn and professional staff.

1058.10 SELECTION PROCESS

Peer Support Team Members shall be recruited from Department personnel at large. The recruiting process shall consist of identifying individuals who meet the following criteria:

(a) Not on probation at the time of appointment;

(b) Agree to maintain confidentiality as provided in this policy;

(c) Possess exceptional interpersonal and verbal communication skills;

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(d) Have a genuine interest in helping their peers.

The Peer Support Team Program is not subject to a rotation policy; however, each member will sign a written agreement acknowledging that they can leave the team or be asked to leave at any time.

All Peer Support Team members will also be required to sign a confidentiality agreement prior to their assignment.

1058.11 ROLE OF PEER SUPPORT MEMBERS

Peer Support Team Members provide support and assistance to employees in time of professional and personal crisis. The responsibilities of a Peer Support Team Member are as follows:

(a) Convey trust and anonymity and assure confidentiality within the policy to employees who seek assistance from their Peer Support Team program;

(b) Attend assigned Peer Support training courses;

(c) Provide assistance and support;

(d) Assist the employee by referring them to the appropriate outside resource when necessary;

(e) Be available to employees for additional follow-up support;

(f) Maintain contact with the Program Coordinator regarding program activities;

(g) Attend scheduled meetings;

(h) Agree to be contacted and if necessary, respond at any hour to assist an employee in need.

1058.12 TRAINING

The suggested minimum training is as follows:

(a) 24-hour POST certified Basic Peer Support training course;

(b) Any additional training as deemed necessary by the Program Coordinator.

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Anti-Retaliation

1059.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or memorandum of understanding.

1059.2 POLICY

The Newport Beach Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

1059.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

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1059.3.1 RETALIATION PROHIBITED FOR REPORTING VIOLATIONS
An officer shall not be retaliated against for reporting a suspected violation of a law or regulation of another officer to a supervisor or other person in the Department who has the authority to investigate the violation (Government Code § 7286(b)).

1059.4 COMPLAINTS OF RETALIATION

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief of Police or the Deputy Director of Human Resources.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

1059.5 SUPERVISOR RESPONSIBILITIES

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

(a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.

(b) Receiving all complaints in a fair and impartial manner.

(c) Documenting the complaint and any steps taken to resolve the problem.

(d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.

(e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.

(f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.

(g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.

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(h) Not interfering with or denying the right of a member to make any complaint.

(i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

1059.6 COMMAND STAFF RESPONSIBILITIES

The Chief of Police should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

(a) Communicating to all members the prohibition against retaliation.

(b) The timely review of complaint investigations.

(c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.

(d) The timely communication of the outcome to the complainant.

1059.7 WHISTLE-BLOWING

California law protects members who (Labor Code § 1102.5; Government Code § 53296 et seq.):

(a) Report a violation of a state or federal statute or regulation to a government or law enforcement agency, including the member's supervisor or any other member with the authority to investigate the reported violation.

(b) Provide information or testify before a public body if the member has reasonable cause to believe a violation of law occurred.

(c) Refuse to participate in an activity that would result in a violation of a state or federal statute or regulation.

(d) File a complaint with a local agency about gross mismanagement or a significant waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. Members shall exhaust all available administrative remedies prior to filing a formal complaint.

(e) Are family members of a person who has engaged in any protected acts described above.

Members are encouraged to report any legal violations through the chain of command (Labor Code § 1102.5).

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Professional Standards Unit for investigation pursuant to the Personnel Complaints Policy.

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1059.7.1 DISPLAY OF WHISTLE-BLOWER LAWS
The Department shall display a notice to members regarding their rights and responsibilities under the whistle-blower laws, including the whistle-blower hotline maintained by the Office of the Attorney General (Labor Code § 1102.8).

1059.8 RECORDS RETENTION AND RELEASE
The Records Manager shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

1059.9 TRAINING
The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

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Attachments

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Hate Crime Checklist.pdf

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HATE CRIME CHECKLIST

VICTIM

Victim Type:

☐ **Individual**
Legal name (Last, First): _____
Other Names used (AKA): _____

☐ **School, business or organization**
Name: _____
Type: _____
(e.g., non-profit, private, public school)
Address: _____

☐ **Faith-based organization**
Name: _____
Faith: _____
Address: _____

Target of Crime (Check all that apply):

☐ Person ☐ Private property ☐ Public property

☐ Other _____

Nature of Crime (Check all that apply):

☐ Bodily injury ☐ Threat of violence

☐ Property damage

☐ Other crime: _____

Property damage - estimated value _____

BIAS

Type of Bias
(Check all characteristics that apply):

☐ Disability
☐ Gender
☐ Gender identity/expression
☐ Sexual orientation
☐ Race
☐ Ethnicity
☐ Nationality
☐ Religion
☐ Significant day of offense
(e.g., 9/11, holy days)
☐ Other: _____

Specify disability (be specific):

_____

_____

Actual or Perceived Bias – Victim's Statement:

☐ Actual bias [Victim actually has the indicated characteristic(s)].

☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].

If perceived, explain the circumstances in narrative portion of Report.

Reason for Bias:

Do you feel you were targeted based on one of these characteristics?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you know what motivated the suspect to commit this crime?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you feel you were targeted because you associated yourself with an individual or a group?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Are there Indicators the suspect is affiliated with a criminal street gang?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Bias Indicators (Check all that apply):

☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used
☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____

Describe with exact detail in narrative portion of Report.

HISTORY

Relationship Between Suspect & Victim:

Suspect known to victim? ☐ Yes ☐ No
Nature of relationship: _____
Length of relationship: _____
If Yes, describe in narrative portion of Report

☐ Prior reported incidents with suspect? Total # _____
☐ Prior unreported incidents with suspect? Total # _____
Restraining orders? ☐ Yes ☐ No
If Yes, describe in narrative portion of Report
Type of order: _____ Order/Case# _____

WEAPONS

Weapon(s) used during incident? ☐ Yes ☐ No Type: _____
Weapon(s) booked as evidence? ☐ Yes ☐ No
Automated Firearms System (AFS) Inquiry attached to Report? ☐ Yes ☐ No

HATE CRIME CHECKLIST

Page _____ of _____

EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No

Photos taken? ☐ Yes ☐ No

Total # of photos: _____ D#: _____

Taken by: _____ Serial #: _____

Recordings: ☐ Video ☐ Audio ☐ Booked

Suspect identified: ☐ Field ID ☐ By photo ☐ Known to victim

OBSERVATIONS

VICTIM	SUSPECT
☐ Tattoos	☐ Tattoos
☐ Shaking	☐ Shaking
☐ Unresponsive	☐ Unresponsive
☐ Crying	☐ Crying
☐ Scared	☐ Scared
☐ Angry	☐ Angry
☐ Fearful	☐ Fearful
☐ Calm	☐ Calm
☐ Agitated	☐ Agitated
☐ Nervous	☐ Nervous
☐ Threatening	☐ Threatening
☐ Apologetic	☐ Apologetic
☐ Other observations: _____	☐ Other observations: _____

ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):

Has suspect ever threatened you?	☐ Yes	☐ No
Has suspect ever harmed you?	☐ Yes	☐ No
Does suspect possess or have access to a firearm?	☐ Yes	☐ No
Are you afraid for your safety?	☐ Yes	☐ No
Do you have any other information that may be helpful?	☐ Yes	☐ No

Resources offered at scene: ☐ Yes ☐ No Type: _____

MEDICAL

Victim	Suspect	
☐	☐	Declined medical treatment
☐	☐	Will seek own medical treatment
☐	☐	Received medical treatment

Authorization to Release Medical Information, Form 05.03.00, signed? ☐ Yes ☐ No

Paramedics at scene? ☐ Yes ☐ No Unit # _____

Name(s)/ID #: _____

Hospital: _____

Jail Dispensary: _____

Physician/Doctor: _____

Patient #: _____

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

Supplemental Hate Crime Report-Agency.pdf

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SUPPLEMENTAL HATE CRIME REPORT

☐ **Hate incident (No Crime Committed)** ☐ **Hate Crime (422.6 PC, 51.7 CC, 52.1 CC)**

VICTIM

VICTIM TYPE

☐ **Individual**

Legal name (Last, First):

_____

Date of Birth	Age	Sex	Race

☐ **School, business or organization**

Name: _____

Type: _____

(e.g., non-profit, private, public school)

☐ **Faith-based organization**

Name: _____

Faith: _____

☐ **Other**

Name: _____

Type: _____

Address: _____

Date and time of incident:

_____

Location of incident:

_____

Date and time of report:

_____

Location of report:

_____

Agency Case #:

_____

NATURE OF CALL FOR SERVICE (check all that apply)

☐ Crime against persons

☐ Crime against property

☐ Gang activity

☐ Other _____

BIAS

TYPE OF BIAS

(Check all characteristics that apply)

☐ Disability
☐ Gender
☐ Gender identity/expression
☐ Sexual orientation
☐ Race
☐ Ethnicity
☐ Nationality
☐ Religion
☐ Significant day of offense
(e.g., 9/11, holy days)
☐ Association with a person or group with one or more of these characteristics (actual or perceived)
☐ Other:
_____

ACTUAL OR PERCEIVED BIAS – VICTIM'S STATEMENT

☐ Actual bias [Victim has the indicated characteristic(s)].
☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].

REASON FOR BIAS:

Do you feel you were targeted based on one of these characteristics?
☐ Yes ☐ No

Do you know what motivated the suspect to commit this crime?
☐ Yes ☐ No

Do you feel you were targeted because you associated yourself with an individual or a group?
☐ Yes ☐ No

Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?
☐ Yes ☐ No

Are there Indicators the suspect is affiliated with a criminal street gang?
☐ Yes ☐ No

BIAS INDICATORS (CHECK ALL THAT APPLY):

☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used
☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____

SUPPLEMENTAL HATE CRIME REPORT

HISTORY

SUSPECT INFORMATION

Legal name (Last, First):

_____

Other Names used (AKA):

_____

Date of Birth	Age	Sex	Race

Relationship to Victim:

_____

RELATIONSHIP BETWEEN SUSPECT & VICTIM

Suspect known to victim: ☐ Yes ☐ No

Nature of relationship:

_____

Length of relationship: _____

☐ Prior reported incidents with suspect: *Total #* _____

Prior unreported incidents with suspect:

☐ Yes ☐ No ☐ Unknown

WEAPONS/FORCE

Weapon(s) used during incident? ☐ Yes ☐ No Type: _____

Force used during incident? ☐ Yes ☐ No Type: _____

EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No

Photos taken? ☐ Yes ☐ No

Recordings: ☐ Video ☐ Audio ☐ Booked

Suspect identified: ☐ Field ID ☐ By photo/video ☐ Known

RESOURCES

Resources offered at scene: ☐ Yes ☐ No

☐ Marsy's Law Handout ☐ Hate Crimes Brochure ☐ Other: _____

MEDICAL

Victim	Suspect	
☐	☐	Declined medical treatment
☐	☐	Will seek own medical treatment
☐	☐	Received medical treatment
☐	☐	Injuries observed

Completed by	***Date***

Name/Title/ID number

Military Equipment Inventory.pdf

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Appendix A **Newport Beach Police Department**
Military Equipment Inventory

Robot	
Category	1
Description	Recon Robotics Throwbot XT
Initial Cost	$15,251 each
Year Acquired	2013
Current Quantity	2
Description/Capabilities	This robot is a battery powered, remote operated device equipped with one camera and audio capability. The device is intended for use during high-risk incidents. Use is limited to members of the department's Crisis Response Unit (CRU) or with authorization of the on-duty Watch Commander. Incidents that may qualify for its use include, but are not limited to, a high-risk warrant service, barricaded subject, and hostage negotiation/rescue.
Purpose	To be used to remotely gain visual/audio data.
Authorized Use	Use is established by the Incident Commander or on-duty Watch Commander. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 321 – Search and Seizure, and NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	10 years
Fiscal Impact	No known annual maintenance cost.

Unmanned Aerial Vehicle	
Category	1
Description	DJI Phantom 3 Professional unmanned aerial vehicle (UAV)
Initial Cost	$1,449
Year Acquired	2016
Current Quantity	1
Description/Capabilities	The Phantom 3 is a consumer-grade UAV that is battery powered and remote operated. The UAV controller uses an integrated smart device that allows the operator to control UAV and view live feed from the UAV-mounted 4K DGI camera. Flight time of approximately 20-25 minutes per battery, depending on weather and flight conditions. Full specifications are available on the manufacturer's product website: https://www.dji.com/phantom-3-pro
Purpose	The UAV was purchased to evaluate a potential UAV program at the NBPD. The department has not implemented a program and does not deploy the UAV during critical incidents.
Authorized Use	The UAV is only authorized to be used for testing purposes.
Expected Lifespan	10 years
Fiscal Impact	No known annual maintenance cost.

Appendix A **Newport Beach Police Department**
Military Equipment Inventory

Armored Personnel Carrier, Vehicle with Entry Apparatus Attached	
Category	2 & 3
Description	2014 Lenco BearCat G2 Armored Rescue Vehicle (ARV)
Initial Cost	$233,872
Year Acquired	2014
Current Quantity	1
Description/Capabilities	The Lenco BearCat G2 is the standard tactical armored vehicle for special operations units within the US Law Enforcement community. Since the early 2000s, agencies such as LAPD, LASD SEB, NYPD ESU, Boston PD and hundreds of Federal, State and Local Law Enforcement agencies have made the BearCat G2 part of their standard operating procedure. The G2 has excellent on-road driving characteristics and maneuverability in tight urban settings. The large floor plan seats 10 – 12 fully equipped officers with a long list of tactical features only found on the Lenco BearCat line of armored SWAT vehicles for Police and Government. The ARV is designed to provide ballistic protection during tactical events (designed to withstand multiple bullet strikes from small arms fire as well as low-level explosions). Equipped with emergency lights/siren and a public address system. Common uses for the ARV include citizen and officer rescues, evacuations, and the deployment of officers. The ARV is a mutual-aid asset that has been requested and deployed to allied agencies in Orange County, including Irvine, Laguna Beach, Costa Mesa, and Tustin.
Purpose	To be used in response to critical incidents to enhance officer and community safety, improve scene containment and stabilization, and assist in resolving critical incidents.
Authorized Use	The use of armored vehicles shall only be authorized by a watch commander or SWAT commander, based on the specific circumstances of a given critical incident. Armored vehicles shall be used only by officers trained in their deployment and in a manner consistent with Department policy and training. The driver of the vehicle shall have a valid California driver license. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 706 – Vehicle Use, and NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	15 years
Fiscal Impact	Annual maintenance cost of approximately $2,500

Appendix A **Newport Beach Police Department**
Military Equipment Inventory

Command and Control Vehicles	
Category	5
Description	2016 Freightliner 3500 Sprinter van, custom upfit by Farber
Initial Cost	$159,090
Year Acquired	2016
Current Quantity	1
Description/Capabilities	The command post (CP) vehicle is a two-axle panel van with front doors, a sliding passenger side door, and rear doors. It is capable of being used as a mobile operations and dispatch center, as an auxiliary command vehicle during major incidents/events and as a negotiation/communication center by the Crisis Negotiations Team. The vehicle is painted white with no police graphics affixed to the exterior. The equipment housed in the vehicle includes, a negotiations control console and accessories, communications throw phone and cables, miscellaneous office supplies, tabletops, chairs, and storage space. The vehicle is also capable of transporting personnel and equipment.
Purpose	To be utilized for critical incident callouts and major events.
Authorized Use	The CP can used by employees who have been properly trained in the safe handling of the vehicle. The driver of the vehicle shall have a valid California driver license. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 706 – Vehicle Use, and NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	10 years
Fiscal Impact	Annual maintenance cost of approximately $1,000

Command and Control Vehicles	
Category	5
Description	2003 Freightliner customized SWAT Van
Initial Cost	$158,270
Year Acquired	2004
Current Quantity	1
Description/Capabilities	The SWAT Van is a custom-built Freightliner van used as a command vehicle and for equipment storage and transportation. It is equipped with a desk and radio for dispatch and storage compartments for the different pieces of equipment used by SWAT (weapons, ammunition, 40mm launchers and projectiles, manual breaching tools, robot, ballistic vests, etc.).
Purpose	To be used based on the specific circumstances of a given critical incident, large event, natural disaster or community event that is taking place.
Authorized Use	The SWAT Van shall be used by officers trained in their deployment and in a manner consistent with Department policy and training. The driver of the vehicle shall have a valid California driver license. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 706 – Vehicle Use, and NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	12 years
Fiscal Impact	Annual maintenance cost of approximately $2,500

Appendix A **Newport Beach Police Department**
Military Equipment Inventory

Breaching Apparatus	
Category	7
Description	Remington 870 Breaching Shotgun.
Initial Cost	Approximately $500 each
Year Acquired	Approximately 2005
Current Quantity	2
Description/Capabilities	This specialized shotgun allows officers to safely utilize shotgun breaching rounds in order to destroy deadbolts, locks, and hinges. The stand-off device that is attached to the end of the barrel allows for positive placement of the shotgun into the correct position and vents gases to prevent overpressure.
Purpose	To safely gain entry into a structure.
Authorized Use	Shotgun breaching may only occur after authorization by the Incident Commander or SWAT Commander in the field, or during training exercises. Only officers trained in shotgun breaching are allowed to utilize this device. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 321 – Search and Seizure, and NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	25 years
Fiscal Impact	No annual cost

Breaching Apparatus Ammunition	
Category	7
Description	Royal Arms TESCR #3, green cap 365 grain tactical shotgun round
Initial Cost	$5.00 per round
Year Acquired	Continuously, beginning 17+ years ago
Current Quantity	40
Description/Capabilities	Shotgun breaching rounds are specialty shotgun shells utilized for door breaching. The breaching rounds contain compressed copper powder and are fired through a specialized breaching shotgun barrel. The copper powder is designed to strike and destroy the lock throw inside of the door, allowing entry into the room or structure. The powder is designed to dissipate after striking the lock throw in order to minimize entry into the target space for the safety of occupants and operators. Royal Arms TESCR #3 rounds are good until expended if stored properly. Shotgun breaching rounds are used to gain rapid access to a room or structure when an emergent law enforcement need exists
Purpose	Ammunition for Breaching Shotgun.
Authorized Use	Shotgun breaching may only occur after authorization by the Incident Commander or SWAT Commander in the field, or during training exercises. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 321 – Search and Seizure, and NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	Until expended
Fiscal Impact	$4 per round. Annual cost between $0 and $200

Appendix A **Newport Beach Police Department**
Military Equipment Inventory

Specialized Firearms	
Category	10
Description	Heckler & Koch MP5 9mm submachine gun
Initial Cost	Unknown (purchased over 30 years ago)
Year Acquired	1992 (estimated)
Current Quantity	8
Description/Capabilities	The MP5 is a lightweight, air-cooled, selective fire, delayed blowback weapon with a roller-delayed bolt that fires a 9mm round. The firearm is highly portable and is capable of accurately stopping an armed subject at various distances.
Purpose	To be used as a hand held weapon to address a threat with more precision and/or greater distances than a handgun, if present and feasible.
Authorized Use	Only members that are POST certified are authorized to use a submachine gun. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	40 years
Fiscal Impact	No annual cost

Specialized Firearms	
Category	10
Description	Colt M4 .223 caliber carbine rifle
Initial Cost	$950
Year(s) Acquired	2002-2017
Current Quantity	5
Description/Capabilities	The carbine rifle is a firearm, capable of accurately stopping an armed subject at various distances. It is a lightweight, air-cooled, gas operated, magazine fed, shoulder fired weapon, designed for semi-automatic and selective fire. The Colt M4 rifle can be used indefinitely and will need to be serviced or replaced when the rifle fails or breaks. The .223/5.56 cartridge is used as a lethal option designed to stop a violent encounter. The projectile is capable of penetrating soft body armor being worn by armed subjects.
Purpose	To be used as hand held weapon to address a threat with more precision and/or greater distances than a handgun, if present and feasible.
Authorized Use	Only members that are POST certified are authorized to use a carbine rifle. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	25 years
Fiscal Impact	No annual cost

Appendix A **Newport Beach Police Department**
Military Equipment Inventory

Specialized Firearms	
Category	10
Description	Bushmaster M4 .223 caliber carbine rifle
Initial Cost	$825
Year(s) Acquired	2007-2012
Current Quantity	17
Description/Capabilities	The carbine rifle is a firearm, capable of accurately stopping an armed subject at various distances. It is a lightweight, air-cooled, gas operated, magazine fed, shoulder fired weapon, designed for semi-automatic & selective fire. The Bushmaster M4 rifle can be used indefinitely and will need to be serviced or replaced when the rifle fails or breaks. The .223/5.56 cartridge is used as a lethal option designed to stop a violent encounter. The projectile is capable of penetrating soft body armor being worn by armed subjects.
Purpose	To be used as hand held weapon to address a threat with more precision and/or greater distances than a handgun, if present and feasible.
Authorized Use	Only members that are POST certified are authorized to use a carbine rifle. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	25 years
Fiscal Impact	No annual cost

Specialized Firearms	
Category	10
Description	Accuracy International .308 Winchester caliber precision rifle
Initial Cost	$5,945 to 6,445
Years(s) Acquired	2014-2020
Current Quantity	3
Description/Capabilities	The Newport Beach Police Department SWAT Team is specifically trained and equipped to resolve potentially dangerous or hazardous incidents. The Sniper element of the SWAT Team deploys with .308 caliber precision rifles, which enable the stopping of an armed subject at a safe distance. The precision rifle can be used indefinitely and will need to be serviced or replaced when the rifle fails or breaks.
Purpose	To be used as precision weapons to address a threat with more precision and/or at greater distances than a handgun, if present and feasible.
Authorized Use	Only members that are POST certified are authorized to use a precision rifle. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	10-12 years
Fiscal Impact	No annual cost

Appendix A **Newport Beach Police Department**
Military Equipment Inventory

Specialized Firearms	
Category	10
Description	Remington 700 .308 Winchester caliber precision rifle.
Initial Cost	$4,464
Year Acquired	2013
Current Quantity	2
Description/Capabilities	The Newport Beach Police Department SWAT Team is specifically trained and equipped to resolve potentially dangerous or hazardous incidents. The Sniper element of the SWAT Team deploys with .308 caliber precision rifles, which enable the stopping of an armed subject at a safe distance. The precision rifle can be used indefinitely and will need to be serviced or replaced when the rifle fails or breaks.
Purpose	To be used as precision weapons to address a threat with more precision and/or at greater distances than a handgun, if present and feasible.
Authorized Use	Only members that are POST certified are authorized to use a precision rifle. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	10-12 years
Fiscal Impact	No annual cost

Specialized Firearms	
Category	10
Description	LWRC REPR .308 Winchester caliber precision rifle
Initial Cost	$5,943
Year Acquired	2015
Current Quantity	1
Description/Capabilities	The Newport Beach Police Department SWAT Team is specifically trained and equipped to resolve potentially dangerous or hazardous incidents. The Sniper element of the SWAT Team deploys with .308 caliber precision rifles, which enable the stopping of an armed subject at a safe distance. The precision rifle can be used indefinitely and will need to be serviced or replaced when the rifle fails or breaks.
Purpose	To be used as precision weapons to address a threat with more precision and/or at greater distances than a handgun, if present and feasible.
Authorized Use	Only members that are POST certified are authorized to use a precision rifle. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	10-12 years
Fiscal Impact	No annual cost

Appendix A **Newport Beach Police Department**
Military Equipment Inventory

Specialized Firearms	
Category	10
Description	DTA SRS .308 Winchester caliber precision rifle
Initial Cost	$5,825
Year Acquired	2015
Current Quantity	1
Description/Capabilities	The Newport Beach Police Department SWAT Team is specifically trained and equipped to resolve potentially dangerous or hazardous incidents. The Sniper element of the SWAT Team deploys with .308 caliber precision rifles, which enable the stopping of an armed subject at a safe distance. The precision rifle can be used indefinitely and will need to be serviced or replaced when the rifle fails or breaks.
Purpose	To be used as precision weapons to address a threat with more precision and/or at greater distances than a handgun, if present and feasible.
Authorized Use	Only members that are POST certified are authorized to use a precision rifle. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	10-12 years
Fiscal Impact	No annual cost

Specialized Firearms Ammunition	
Category	10
Description	Hornady .308 Winchester 168 grain, A-Max TAP cartridge
Initial Cost	$231 per 200 round case
Year Acquired	Continuously beginning 5 years ago
Current Quantity	3,000 (approximate current inventory)
Description/Capabilities	The .308 Winchester (.308 WIN) cartridge is a rimless, bottlenecked rifle cartridge used as a lethal option designed to stop a violent encounter. The projectile is capable of penetrating soft body armor worn by armed subjects. The 168 grain projectile maintains accuracy, while resulting in higher impact velocities, less drop, less wind drift, and more energy on target.
Purpose	The Hornady .308 WIN 168 grain, A-Max TAP cartridge is deployed during potential lethal encounters at longer distances.
Authorized Use	Only members that are POST certified are authorized to use a precision rifle and this ammunition. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	Until expended
Fiscal Impact	$0 to $3,700 annually, depending on usage

Appendix A **Newport Beach Police Department**
Military Equipment Inventory

Specialized Firearms Ammunition	
Category	10
Description	Hornady .308 Winchester 168 grain, GMX TAP cartridge
Initial Cost	$231 per 200 round case
Year Acquired	Continuously, beginning 5 years ago
Current Quantity	200
Description/Capabilities	The .308 WIN cartridge is a rimless, bottlenecked rifle cartridge used as a lethal option designed to stop a violent encounter. The projectile is capable of penetrating soft body armor being worn by armed subjects.
Purpose	The Hornady .308 WIN 165 grain, GMX TAP Heavy Barrier cartridge is deployed during potential lethal encounters at longer distances. The GMX bullet penetrates heavy barriers while still delivering terminal performance through heavy barriers.
Authorized Use	Only members that are POST certified are authorized to use a precision rifle. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 311 – Firearms Training and Qualifications, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	Until expended
Fiscal Impact	$0 to $3,700 annually, depending on usage

Flashbang Grenades	
Category	12
Description	Combined Tactical Systems CTS 7290 NFDD
Initial Cost	$72 each
Year Acquired	Continuously, beginning 5 years ago
Current Quantity	20
Description/Capabilities	A Noise Flash Diversionary Devices (NFDD) is a device that creates a bright flash and loud sound to temporarily divert the attention of subjects in the immediate area. NFDD are used to distract and temporarily incapacitate dangerous suspects by overwhelming their senses of vision and hearing. The distraction allows officers to seize a moment of opportunity to take control of high-risk situations.
Purpose	To produce atmospheric over-pressure and brilliant white light and, as a result, can cause short-term (6 - 8 seconds) physiological/psychological sensory deprivation to give officers a tactical advantage.
Authorized Use	Diversionary Devices shall only be used: • By SWAT officers trained in their proper use. • In hostage and barricaded subject situations. • In high-risk warrant (search/arrest) services where there may be extreme hazards to officers. • During other high-risk situations where their use would enhance officer safety. • During training exercises. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.

Expected Lifespan	5 years
Fiscal Impact	Annual cost between $0 - $1,666, depending on usage

Flashbang Grenades	
Category	12
Description	Combined Tactical Systems CTS 7290M NFDD
Initial Cost	$34 each
Year Acquired	Continuously, beginning 5 years ago
Current Quantity	11
Description/Capabilities	A Noise Flash Diversionary Devices (NFDD) is a device that creates a bright flash and loud sound to temporarily divert the attention of subjects in the immediate area. NFDD are used to distract and temporarily incapacitate dangerous suspects by overwhelming their senses of vision and hearing. The distraction allows officers to seize a moment of opportunity to take control of high-risk situations
Purpose	To produce atmospheric over-pressure and brilliant white light and, as a result, can cause short-term (6 - 8 seconds) physiological/psychological sensory deprivation to give officers a tactical advantage.
Authorized Use	Diversionary Devices shall only be used: • By SWAT officers trained in their proper use. • In hostage and barricaded subject situations. • In high-risk warrant (search/arrest) services where there may be extreme hazards to officers. • During other high-risk situations where their use would enhance officer safety. • During training exercises. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Annual cost between $0 - $376, depending on usage

Flashbang Grenades	
Category	12
Description	Combined Tactical Systems CTS 7290-9 NFDD
Initial Cost	$55 each
Year Acquired	Continuously, beginning 5 years ago
Current Quantity	4
Description/Capabilities	A Noise Flash Diversionary Devices (NFDD) is a device that creates a bright flash and loud sound to temporarily divert the attention of subjects in the immediate area. NFDD are used to distract and temporarily incapacitate dangerous suspects by overwhelming their senses of vision and hearing. The distraction allows officers to seize a moment of opportunity to take control of high-risk situations
Purpose	To produce atmospheric over-pressure and brilliant white light and, as a result, can cause short-term (6 - 8 seconds)

	physiological/psychological sensory deprivation to give officers a tactical advantage.
Authorized Use	Diversionary Devices shall only be used: • By SWAT officers trained in their proper use. • In hostage and barricaded subject situations. • In high-risk warrant (search/arrest) services where there may be extreme hazards to officers. • During other high-risk situations where their use would enhance officer safety. • During training exercises. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Annual cost between $0 - $276, depending on usage

Flashbang Grenades	
Category	12
Description	Defense Technology 8901 NFDD
Initial Cost	$33 each
Year Acquired	Continuously, beginning 10+ years ago
Current Quantity	2
Description/Capabilities	A Noise Flash Diversionary Devices (NFDD) is a device that creates a bright flash and loud sound to temporarily divert the attention of subjects in the immediate area. NFDD are used to distract and temporarily incapacitate dangerous suspects by overwhelming their senses of vision and hearing. The distraction allows officers to seize a moment of opportunity to take control of high-risk situations
Purpose	To produce atmospheric over-pressure and brilliant white light and, as a result, can cause short-term (6 - 8 seconds) physiological/psychological sensory deprivation to give officers a tactical advantage.
Authorized Use	Diversionary Devices shall only be used: • By SWAT officers trained in their proper use. • In hostage and barricaded subject situations. • In high-risk warrant (search/arrest) services where there may be extreme hazards to officers. • During other high-risk situations where their use would enhance officer safety. • During training exercises. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Annual cost between $0 - $66, depending on usage

Appendix A **Newport Beach Police Department**
Military Equipment Inventory

Tear Gas	
Category	12
Description	Combined Tactical Systems CTS 5230 CS Canister Grenade
Initial Cost	$51 each
Year Acquired	Continuously, beginning 5+ years ago
Current Quantity	50
Description/Capabilities	Large diameter burning canister that discharges a high volume of smoke and chemical agent through multiple emission ports. Specifically for outdoor use. Can be hand thrown or launched. Discharge duration can reach up to 40 seconds. Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $1,752 annually, depending on usage

Tear Gas	
Category	12
Description	Combined Tactical Systems CTS 5230B CS Baffled Canister Grenade
Initial Cost	$51 each
Year Acquired	Continuously, beginning 5+ years ago
Current Quantity	17
Description/Capabilities	Pyrotechnic grenade designed for indoor use delivering a maximum amount of irritant smoke throughout multiple rooms with minimal risk of fire. Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC

	(Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $1,752 annually, depending on usage

Tear Gas	
Category	12
Description	Combined Tactical Systems CTS 6340 OC Vapor Grenade
Initial Cost	$26 each
Year Acquired	Continuously, beginning 5+ years ago
Current Quantity	9
Description/Capabilities	This grenade delivers an invisible OC vapor and renders an intense respiratory effect to a non-compliant subject. Chemical agent munitions, which are commonly referred to as “tear gas,” are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited

	to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $263 annually, depending on usage

Tear Gas	
Category	12
Description	Defense Technology 1032 CS Grenade
Initial Cost	$25 each
Year Acquired	Continuously, beginning 10+ years ago
Current Quantity	5
Description/Capabilities	The design of the Tri-Chamber Flameless CS grenade allows the contents to burn within an internal can and disperse the agent safely with reduced risk of fire. Designed primarily for indoor tactical situations to detect and/or dislodge a barricaded subject. This canister will deliver approximately .70 oz. of agent during its 20-25 seconds burn time. Chemical agent munitions, which are commonly referred to as “tear gas,” are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $127 annually, depending on usage

Tear Gas	
Category	12
Description	Defense Technology MK9 Stream OC Aerosol
Initial Cost	$44 each
Year Acquired	Continuously, beginning 15+ years ago
Current Quantity	3

Description/Capabilities	The MK-9 features an easy to use trigger handle, is intended for use in crowd management and will deliver 14 short bursts of OC at an effective range of 18-20 ft. This 1.3% MC OC aerosol product utilizes a stream delivery method providing a target-specific, strong concentrated stream for greater standoff. Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $132 annually, depending on usage

Tear Gas	
Category	12
Description	Combined Tactical Systems CTS 4330 – CS Liquid 40mm projectile
Initial Cost	$23 each
Year Acquired	Continuously, beginning 5+ years ago
Current Quantity	18
Description/Capabilities	Liquid CS filled 40mm projectile penetrates intermediate barriers and delivers irritant agents into an adjacent room. Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).

Appendix A **Newport Beach Police Department**
Military Equipment Inventory

Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $453 annually, depending on usage.

Tear Gas	
Category	12
Description	Defense Technology 6320 – Direct Impact 40mm Crushable Foam Round.
Initial Cost	$31 each
Year Acquired	Continuously, beginning 10+ years ago
Current Quantity	12
Description/Capabilities	The 40mm Direct Impact munition is a point-of-aim, point-of-impact direct-fire round. An excellent solution whether you need to incapacitate a single subject or control a crowd. When loaded with OC powder, the Direct Impact combines blunt trauma with the effects of an irritant powder, maximizing the potential for incapacitation. Chemical agent munitions, which are commonly referred to as “tear gas,” are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited

	to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $266 annually, depending on usage.

Tear Gas	
Category	12
Description	Defense Technology 1260 – 40MM Ferret OC Barricade Penetrating Projectile, Liquid
Initial Cost	$14 each
Year Acquired	Continuously, beginning 10+ years ago
Current Quantity	8
Description/Capabilities	The Ferret 40mm Round is non-burning and suitable for indoor use. Used primarily by tactical teams, it is designed to penetrate barriers, such as windows, hollow core doors, wallboard and thin plywood. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers a small chemical payload inside of a structure or vehicle. In a tactical deployment situation, the 40mm Ferret is primarily used to dislodge barricaded subjects from confined areas. Its purpose is to minimize the risks to all parties through pain compliance, temporary discomfort and/or incapacitation of potentially violent or dangerous subjects. Chemical agent munitions, which are commonly referred to as “tear gas,” are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $113 annually, depending on usage

Tear Gas

Appendix A **Newport Beach Police Department**
Military Equipment Inventory

Category	12
Description	Defense Technology 1290 – 40MM Ferret OC Barricade Penetrating Projectile, Powder
Initial Cost	$15 each
Year Acquired	Continuously, beginning 10+ years ago
Current Quantity	3
Description/Capabilities	The Ferret 40 mm Barricade Penetrating Round is filled with an OC powder chemical agent. It is a frangible projectile that is spin stabilized utilizing barrel rifling. It is non-burning and designed to penetrate barriers. Primarily used to dislodge barricaded subjects, it can also be used for area denial. Primarily used by tactical teams, it is designed to penetrate barriers, such as windows, hollow core doors, wallboard and thin plywood. Upon impact the nose ruptures and instantaneously delivers the agent payload inside a structure or vehicle. Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Newport Beach Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects. The Newport Beach Police Department uses chemical agents that are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). OC is an inflammatory agent that causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force, NBPD Policy 408 – Crisis Response Unit.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $44 annually, depending on usage.

PepperBall Launcher	
Category	12
Description	PepperBall FTC pepperball launcher
Initial Cost	$412 each
Year Acquired	2021
Current Quantity	8
Description/Capabilities	The FTC pepperball launcher is a system that uses high pressure air to deliver PAVA powder projectiles (similar to a paint ball delivery system). System capable of launching projectiles at a subject up to 60 feet away. System capable of area saturation up to

	160 feet away. Non-lethal option to offer law enforcement officers to deliver chemical agents and kinetic energy impacts to subjects in a potentially violent encounter. De-escalation tool used to avoid further injuries or lethal options on a subject.
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only those officers who have been trained in the use of pepperball launchers are authorized to use the pepperball launchers. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force.
Expected Lifespan	10 years
Fiscal Impact	Between $0 and $1,500 annually, depending on usage

PepperBall Launcher Projectile	
Category	12
Description	PepperBall LIVE X projectile
Initial Cost	$237 per 90 rounds
Year Acquired	2021
Current Quantity	500
Description/Capabilities	The basic PepperBall projectile contains 0.5% pepper powder, and is designed for direct impact and area saturation. Discharged from a FTC pepperball launcher, the projectile has a velocity of 280-350 FPS. The projectile has a direct impact of 60 feet and an area of saturation of 150+ feet. The projectile contains 0.5% PAVA Powder.
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations.
Authorized Use	Only those officers who have been trained in the use of pepperball launchers are authorized to use the pepperball launchers. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force
Expected Lifespan	1 year
Fiscal Impact	Between $0 and $1,318 annually, depending on usage.

Appendix A **Newport Beach Police Department**
Military Equipment Inventory

Projectile Launch Platforms	
Category	14
Description	Defense Technology 40LMTS Tactical 40mm Single Launcher
Initial Cost	$856 each
Year Acquired	Beginning 15+ years ago.
Current Quantity	38
Description/Capabilities	The 40LMTS is a tactical single shot launcher that features an expandable ROGERS Super Stoc and an adjustable Integrated Front Grip (IFG) with light rail. The ambidextrous Lateral Sling Mount (LSM) and QD mounting systems allow both a single and two point sling attachment. The 40LMTS will fire standard 40mm less lethal ammunition, up to 4.8 inches in cartridge length. The Picatinny Rail Mounting System will accept a wide array of enhanced optics/sighting systems. The 40mm launcher is not a firearm, but a less-lethal system that uses smokeless powder to deliver 40mm projectiles from a safe distance. The less-lethal launcher is capable of launching 40mm munitions at a subject up to 25 yards away. This less-lethal launcher is a single launcher, which allows the Officer to assess after every spent munition. Less-lethal launchers do not have an expiration date and will need to be serviced or replaced when the launcher fails or breaks.
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable.
Authorized Use	Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force.
Expected Lifespan	25 years
Fiscal Impact	Between $0 and $1,000 annually, depending on usage.

Projectile Launch Platforms	
Category	14
Description	Penn Arms PG5 40 mm Multi Launcher
Initial Cost	$3,336 each
Year Acquired	10+ years ago
Current Quantity	2
Description/Capabilities	The 40mm launcher is a less-lethal system that uses smokeless powder to deliver 40MM projectiles from a safe distance. This piece of equipment features a six-shot, revolving cylinder pump mechanism capable of firing multiple rounds before reloading is necessary. The less-lethal launchers do not have an expiration date and will need to be serviced or replaced when the launcher fails or breaks.
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable.

Authorized Use	Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force.
Expected Lifespan	No expiration
Fiscal Impact	Between $0 and $8,550 annually, depending on usage

Projectile Launcher Associated Munitions	
Category	14
Description	Defense Technology eXact iMpact 40MM Standard Range Sponge Round
Initial Cost	$34 per round
Year Acquired	Continuously, beginning15+ years ago
Current Quantity	200
Description/Capabilities	The eXact iMpact 40 mm Sponge Round is a point-of-aim, point-of-impact direct-fire round. This lightweight, high-speed projectile consisting of a plastic body and sponge nose that is spin stabilized via the incorporated rifling collar and the 40 mm launcher's rifled barrel. The round utilizes smokeless powder as the propellant, and, therefore, have velocities that are extremely consistent. Used for crowd control, patrol, and tactical applications. The munition is used as a less-lethal device designed to de-escalate a potentially violent encounter.
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable.
Authorized Use	Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $6,800 annually, depending on usage

Projectile Launcher Associated Munitions	
Category	14
Description	Defense Technology 6326 – Direct Impact 40mm Marking Crushable Foam Round
Initial Cost	$31 each
Year Acquired	Continuously, beginning 10+ years ago

Appendix A **Newport Beach Police Department**
Military Equipment Inventory

Current Quantity	4
Description/Capabilities	The 40mm Direct Impact munition is a point-of-aim, point-of-impact direct-fire round. An excellent solution whether you need to incapacitate a single subject or control a crowd. When loaded with a green marking agent, the Direct Impact can be used to indicate the aggressor in a crowd or riot situation to the team on the ground.
Purpose	To limit the escalation of conflict where employment of lethal force is prohibited or undesirable and to clearly indicate individuals committing or instigating unlawful activities.
Authorized Use	Situations for use of the less lethal weapon systems may include, but are not limited to: • Self-destructive, dangerous and/or combative individuals. • Riot/crowd control and civil unrest incidents. • Circumstances where a tactical advantage can be obtained. • Potentially vicious animals. • Training exercises or approved demonstrations. All other applicable NBPD policies remain in effect, to include, but not limited to, NBPD Policy 300 – Use of Force.
Expected Lifespan	5 years
Fiscal Impact	Between $0 and $263 annually, depending on usage

Statutes and Legal Requirements.pdf

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Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

Definitions

CPC 422.55 - Provides general definition of hate crimes in California.

CPC 422.56- Provides definitions of terms included in hate crimes statutes.

GC 12926- Disability-related definitions applicable to some hate crime statutes.

Felonies

Hate Crimes

CPC 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

Related Crimes

CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.

CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.

CPC 288(b)(2) - Sexual assault of dependent person by caretaker

CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.

CPC 11413 - Arson or destructive device at place of worship.

Misdemeanors

Hate Crimes

CPC 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

Related Crimes

CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.

Enhancements

CPC 190.2(a)(16) - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 190.3 - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 422.75 - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

CPC 1170.8 - Enhancement for robbery or assault at a place of worship.

CPC 1170.85(b) - Felony assault or battery enhancement due to age or disability.

Reporting

CPC 13023- Requirement for law enforcement agencies to report hate crime data to DOJ.

WI 15630 – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

Training and Policy Requirements

CPC 422.87 - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

CPC 13519.6 - Defines hate crime training requirements for peace officers.

CPC 13519.41 - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

Miscellaneous Provisions

CPC 422.78 - Responsibility for prosecution of stay away order violations.

CPC 422.86 - Public policy regarding hate crimes.

CPC 422.89 - Legislative intent regarding violations of civil rights and hate crimes

CPC 422.92 - Hate crimes victims brochure requirement for law enforcement agencies.

CPC 422.93 - Protection of victims and witnesses from being reported to immigration authorities.

GC 6254 - Victim confidentiality.

POST Human Trafficking Survivor's Waiver of Rights to an Advocate.pdf

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APPENDIX

Human Trafficking Survivor's Waiver of Rights to an Advocate

You have the right to have an advocate present during any interview with law enforcement and during other subsequent examinations and proceedings. Please be advised that there are certain benefits of being represented by an advocate, including, among other things, confidentiality and evidentiary privilege, emotional support, assistance in accessing resources, and assistance with understanding your legal rights. There is no cost to you if you request an advocate. If you request an advocate, the officer will contact the appropriate organization and arrange for the advocate to be present for any further interviews, examinations, or other proceedings.

Accordingly, you may request that your advocate be present for this and any further interviews or examinations.

If you choose to waive your right to an advocate, you may revoke that waiver at any time and request an advocate. By signing this document, you, as a survivor of human trafficking, are indicating that you understand and are waiving your rights to an advocate. I hereby waive my right to an advocate as a survivor of human trafficking:

Name	
Signature	Date
Declined to Sign (if the victim provides a reason for refusing to sign, state the reason):	

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