

Banning Police Department

Banning PD Policy Manual

MISSION STATEMENT

Mission Statement

The Banning Police Department is committed to serve with honor and protect all citizens of our culturally diverse community, through a partnership focused on public trust and providing a safe environment for all.

DEPARTMENT VALUES:

We will perform our duties with honesty and be committed to ethical beliefs beyond reproach, in both conduct and performance.

We will be loyal and dedicated to our citizens and our Department co-workers while adhering to the Law Enforcement Code of Ethics.

Our professionalism will be demonstrated through our courteous and respectful treatment of others, remembering that we are entrusted with providing a safe environment to all citizens, regardless of their social or economic status.

We recognize that we must adhere to our principals to earn and retain the trust of the community, and therefore pledge to hold ourselves accountable to his commitment of excellence.

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Chapter 1 - Law Enforcement Role and Authority

Law Enforcement Authority

100.1 PURPOSE AND SCOPE

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

100.2 PEACE OFFICER POWERS

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

100.2.1 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE BANNING POLICE DEPARTMENT

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

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

On-duty arrests will not generally be made outside the jurisdiction of this [department/office] 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.

100.2.2 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE BANNING POLICE DEPARTMENT

The arrest authority within the jurisdiction of the Banning 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.

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

100.2.3 TIME OF MISDEMEANOR ARRESTS

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

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

100.2.4 OREGON AUTHORITY

Sworn members of this [department/office] 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.

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

Whenever practicable, officers should seek permission from a [department/office] 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

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concerning the incident to the Oregon agency having primary jurisdiction over the area in which the incident occurred.

100.3 POLICY

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

While this [department/office] 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/office] does not tolerate the abuse of law enforcement authority.

100.4 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

- (a) As applicable under interstate compacts, memorandums of understanding or mutual aid agreements in compliance with the laws of each state.
- (b) When an officer enters an adjoining state in close or fresh pursuit of a person believed to have committed a felony (ARS § 13-3832; NRS 171.158; ORS 133.430).

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

100.5 CONSTITUTIONAL REQUIREMENTS

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

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).

Oath of Office

102.1 PURPOSE AND SCOPE

Officers of this agency are sworn to enforce the law and uphold the federal and state constitutions and the municipal laws of the City of Banning.

102.2 POLICY

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

102.3 OATH OF OFFICE

All [department/office] 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).

Policy Manual

103.1 PURPOSE AND SCOPE

The manual of the Banning 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.

103.2 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 Banning 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 Banning Police Department reserves the right to revise any policy content, in whole or in part.

103.2.2 STAFF

Staff shall consist of the following:

- Chief of Police
- Captain
- Lieutenants

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

103.2.3 OTHER PERSONNEL

All Department employees suggesting revision of the contents of the Policy Manual shall forward their suggestion, in writing, to their Division Lieutenant who will consider the recommendation and forward to staff.

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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 General Orders, which shall modify those provisions of the manual to which they pertain. General Orders shall remain in effect until such time as they may be permanently incorporated into the manual.

103.3.1 DISTRIBUTION OF MANUAL

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

- Chief of Police
- Captain
- Lieutenants
- Administrative Sergeant
- Personnel & Training Bureau
- Watch Commander
- Field Sergeant's Office
- Detective Bureau
- Officer's Report Room
- Temporary Holding Facility (15 CCR § 1029)

A computerized version of the Policy Manual will be made available on the Department network for access by all employees. No changes shall be made to the electronic version without authorization.

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).

CHP- The California Highway Patrol.

CFR - Code of Federal Regulations.

City - The City of Banning.

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

Department/BPD - The Banning Police Department.

DMV - The Department of Motor Vehicles.

Employee - Any person employed by the Department.

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Juvenile - Any person under the age of 18 years.

Manual - The Banning Police Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

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

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

Officer - Those employees, regardless of rank, who are sworn peace officers of the Banning 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.

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.

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103.5 ISSUING THE POLICY MANUAL

An electronic version of the Policy Manual will be made available to all members on the department network for viewing and printing. No changes shall be made to the manual without authorization from the Chief of Police or the authorized designee.

All employees are required to sign a statement of receipt acknowledging that they have received or have been provided access to the Policy Manual and understand they are responsible to read and become familiar with its contents.

Each member shall acknowledge that he/she has been provided access to, and has had the opportunity to review the Policy Manual and General Orders. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

103.6 PERIODIC REVIEW OF THE POLICY MANUAL

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

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.

Law Enforcement Code of Ethics

104.1 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/office] at all times.

104.2 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).

104.3 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/office]. 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.

104.3.1 OBJECTION TO RELIGIOUS AFFIRMATION

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

Chapter 2 - Organization and Administration

Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

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

200.2 DIVISIONS

The Chief of Police is responsible for administering and managing the Banning Police Department. There are two divisions in the Police Department as follows:

- Support Division
- Operations Division

200.2.1 SUPPORT DIVISION

The Support Division consists of but is not limited to Administrative Support Staff, Records, Evidence, the Communication Center. General management direction and control of the Support Division is provided by a designee, as determined and directed by the Chief of Police.

200.2.2 OPERATIONS DIVISION

The Operations Division consists of Uniformed Patrol, the Traffic Bureau, Special Assignments, and the Detective Bureau.. General management direction and control of the Operations Division is provided by a designee, as determined and directed by the Chief of Police.

200.3 COMMAND PROTOCOL

200.3.1 SUCCESSION OF COMMAND

The Chief of Police exercises command over all personnel in the Department. During planned absences, the Captain or designee, as determined by the Chief of Police, will serve as the acting Chief of Police.

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

- (a) Captain
- (b) Lieutenant, as determined by the Chief of Police or the Captain in the absence of the Chief of Police.
- (c) On-duty Watch Commander

200.3.2 UNITY OF COMMAND

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

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Organizational Structure and Responsibility

200.3.3 ORDERS

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

General Order

201.1 PURPOSE AND SCOPE

The purpose of this General Order is to clearly identify the Authority of General Orders and to recognize the term "General Order" as synonymous with the term "Policy" throughout this manual.

201.2 RESPONSIBILITIES

- (a) A General Order is a written order, issued by the Chief of Police, outlining a policy, procedure, rule or regulation regarding a matter that affects the entire Department or a portion thereof. General Orders are permanent directives and remain in full effect until amended or canceled by the Chief of Police.
- (b) General Orders and Departmental Policies, Procedures, Rules and Regulations are applicable to all members of the Department, whether salaried or not, who act for and on behalf of the Chief of Police.
- (c) State law and City Ordinances shall apply to the Department and the members where appropriate.
- (d) It is the responsibility of each member of the Department to be familiar with and knowledgeable of the General Orders, Departmental Policies, Procedures, Rules and Regulations and Directives. New members shall be familiar with and knowledgeable of the General Orders within fifteen (15) days after issuance and shall provide Police Administration with a written statement that they will read and understand the General Orders within (15) days after issuance.
- (e) It is the duty of each member to acquaint themselves with all new General Orders, policies, procedures, rules and regulations, and Directives of the Department.
- (f) It is the duty of each member to read and adhere to the to the City policies on Drug and Alcohol Abuse, Harassment, and Workplace Violence.
- (g) All General Orders, Departmental Policies, Procedures or Rules and Regulations, and Directives of the Department shall be presumed known and familiar to the member on the first working day after issuance.
- (h) Failure of any member to perform the duties of their rank or assignment, and/or the violation of any General Order or other Directive of the Department, may be considered sufficient cause for discharge, demotion, suspension, reduction in compensation or other Departmental discipline.
- (i) When a Policy Manual is issued to any member, it shall be the responsibility of the member to properly maintain the manual and keep it updated.
- (j) The term "General Order" is recognized as synonymous with the term "Policy" throughout this manual.

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General Order

201.2.1 STAFF

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

201.2.2 CHIEF OF POLICE

The Chief of Police shall issue all General Orders.

201.3 ACCEPTANCE OF GENERAL ORDERS

All employees are required to read and obtain any necessary clarification of all General Orders. All employees are required to acknowledge in writing the receipt and review of any new General Order or Departmental Directive. Signed acknowledgment forms and/or e-mail receipts showing an employee's acknowledgment will be maintained by the Department's Administration.

Departmental Communications - Written

202.1 PURPOSE AND SCOPE

The Department formally communicates with members by a system of General Orders, Departmental Directives, Special Orders and Departmental Memorandums. The issuing of a General Order, Departmental Directive, or a Special Order is reserved for the sole use and discretion of the Chief of Police.

202.2 NEW GENERAL ORDER

A New General Order establishes an inner-departmental communication that is used by the Chief of Police to make immediate changes to policy and procedure consistent with the current Memorandum of Understanding and as permitted by Government Code §§ 3500 et. seq. New General Orders will immediately modify or change and supersede sections of this manual to which they pertain.

- (a) New General Orders will be incorporated into the manual as required upon approval of Staff. Each year the New General Orders will modify existing policies or create a new policy as appropriate. Once the New General Order has been incorporated into the manual as policy, it will be rescinded.
- (b) New General Orders issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year, followed by the number "1", etc. For example, 07-01 would be the first directive for 2007.
- (c) The Staff shall review and approve revisions of the manual, which will incorporate changes originally made by New General Orders.
- (d) The Chief of Police shall issue all New General Orders.

202.3 DEPARTMENT DIRECTIVE

A Department Directive is a written directive or communication issued by the Chief of Police, or at his direction, outlining or advising a policy or an operational procedure to be followed on a specific operation or topic. Department Directives may modify portions of the General Orders. A Department Directive is to be viewed as a direct order from the Chief of Police.

202.4 SPECIAL ORDER

A Special Order is an order issued by the Chief of Police, or at his direction, which affects any portion or all of the Department on a temporary basis for a specific incident or event. Special Orders are not permanent and cancel themselves when the specific incident or event passes. Special Orders are used for assignment of personnel to training or related activities.

202.5 DEPARTMENT MEMORANDUM

A Department Memorandum is a written communication issued by the Chief of Police or Lieutenant, or at their direction, advising announcements, suggestions or Department, Division,

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Departmental Communications - Written

Station, Bureau, or Facility information on various topics or issues and can be directed outside the Department.

Any Department member may write a Department Memorandum or letter that is directed within the agency. Letters and memorandums that are addressed outside of the Department shall be signed by a Lieutenant or higher.

Disaster Plan

203.1 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).

203.2 ACTIVATING THE EMERGENCY PLAN

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

203.2.1 RECALL OF PERSONNEL

In the event that the Emergency Management Plan is activated, all employees of the Banning 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.

203.3 LOCATION OF THE PLAN

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

203.4 UPDATING OF MANUALS

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

Training

204.1 PURPOSE AND SCOPE

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

204.2 PHILOSOPHY

The [Department/Office] 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/Office] will use courses certified by the California Commission on Peace Officer Standards and Training (POST).

204.3 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/office] personnel.
- (d) Ensure compliance with POST rules and regulations concerning law enforcement training.

204.4 TRAINING PLAN

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

- State mandated training
- Federal mandated training
- Critical issues training

204.5 TRAINING NEEDS ASSESSMENT

The Training Section will conduct an annual training-needs assessment of the [Department/Office]. 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.

204.6 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:

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1. Court appearances
 2. First choice vacation
 3. Sick leave
 4. Physical limitations preventing the employee's participation.
 5. Emergency situations
- (b) When an employee is unable to attend mandatory training, that employee shall:
1. Notify his/her supervisor as soon as possible but no later than one hour prior to the start of training.
 2. Document his/her absence in a memorandum to his/her supervisor.
 3. Make arrangements through his/her supervisor and the Training Sergeant to attend the required training on an alternate date.

204.7 DAILY TRAINING BULLETINS

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

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

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

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

204.8 POLICY

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

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204.9 TRAINING SERGEANT

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

204.9.1 TRAINING RESTRICTION

The Training Sergeant is responsible for establishing a process to identify officers who are restricted from training other officers for the time period specified by law because of a sustained use of force complaint (Government Code § 7286(b)).

Electronic Mail

205.1 PURPOSE AND SCOPE

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

205.2 EMAIL RIGHT OF PRIVACY

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

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

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

205.3 PROHIBITED USE OF EMAIL

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

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

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

205.4 EMAIL RECORD MANAGEMENT

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

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Electronic Mail

The City's Information Systems Staff shall ensure that email messages are retained and recoverable as outlined in the City's Records Maintenance and Release Policy.

Administrative Communications

206.1 PURPOSE AND SCOPE

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

206.2 ADMINISTRATIVE 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.

206.3 CORRESPONDENCE

In order to ensure the letterhead and name of the Banning Police 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 the approval and signature of either the Chief of Police or Lieutenant.

206.4 SURVEYS

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

Staffing Levels

207.1 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.

207.2 MINIMUM STAFFING LEVELS

One Watch Commander/Supervisor (Sergeant rank or higher) will be deployed during each patrol watch. In the absence of an available Sergeant rank or higher, a Corporal shall be designated to fill the acting Watch Commander/Supervisor role.

In addition to one Watch Commander/Supervisor, each patrol watch will be staffed by a minimum of two other sworn personnel.

License to Carry a Firearm

208.1 PURPOSE AND SCOPE

The purpose of this policy is to provide a written process for the application, issuance, denial, appeal, and revocation of a license to carry a firearm (Penal Code § 26150; Penal Code § 26155).

208.1.1 APPLICATION OF POLICY

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

208.2 POLICY

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

208.3 QUALIFIED APPLICANTS

In order to qualify for a license to carry a firearm, the applicant must:

- (a) Be deemed not to be a disqualified person as provided in Penal Code § 26202.
- (b) Be deemed not to be prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm (Penal Code § 26185; Penal Code § 26195).
- (c) Be a resident of the City of Banning or meet the non-residential jurisdictional requirements (Penal Code § 26150; Penal Code § 26155)
 - 1. Non-resident applicants may be eligible for a license if they are members of the California Rifle & Pistol Association, Inc., Gun Owners of America, Inc., Gun Owners of California, Inc., the Second Amendment Foundation, or the Firearms Policy Coalition and are not otherwise prohibited from possessing firearms under federal or California law. Proof of membership is required.
- (d) Be at least 21 years of age, and present clear evidence of identity and age as defined in Penal Code § 16400 (Penal Code § 26150; Penal Code § 26155).
- (e) Fully complete the California Department of Justice (DOJ) application (Penal Code § 26175).
- (f) Submit fingerprints and a complete criminal background check (Penal Code § 26185).
- (g) Pay all associated application fees (Penal Code § 26190).
- (h) Be the recorded owner of the firearm, with the California DOJ, for which the license will be issued, as determined by the Banning Police Department (Penal Code § 26162).
- (i) Be free from any psychological conditions that might make the applicant unsuitable for carrying a firearm (Penal Code § 26190).
- (j) Complete required training described in Penal Code § 26165.

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208.3.1 NON-RESIDENT APPLICANTS

Non-resident applicants are required to meet the resident criteria described in the Qualified Applicants section of this policy, where applicable, as well as the requirements in Penal Code § 26150(b) and Penal Code §26155(b).

208.3.2 APPLICANT DISQUALIFICATION

The [Department/Office] shall not issue a license when (Penal Code § 26195):

- (a) The applicant fails to comply with all reporting requirements concerning any restraining orders, arrests, convictions, or charges as specified in Penal Code § 26202.
- (b) The applicant knowingly provided false, inaccurate, or incomplete information in connection with any application for a license, license renewal, or license amendment pursuant to Penal Code § 26175(e).

208.4 APPLICATION PROCESS

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

208.4.1 PHASE ONE (TO BE COMPLETED BY ALL APPLICANTS)

- (a) Any individual applying for a license to carry a firearm shall first fully complete a California DOJ application to be signed under penalty of perjury. Any applicant who provides false information or statements on the application will be removed from further consideration and may be prosecuted for a criminal offense (Penal Code § 26180).
 - 1. If an incomplete application package is received, the Chief of Police or the authorized designee may do any of the following:
 - (a) Require the applicant to complete the package before any further processing.
 - (b) Advance the incomplete package to phase two for conditional processing pending completion of all mandatory conditions.
 - (c) Issue a denial if the materials submitted at the time demonstrate that the applicant would not qualify for a license to carry a firearm even if the package was completed (e.g., disqualifying criminal conviction).
- (b) Applicant fees shall be submitted and processed according to [department/office]-established procedures and Penal Code § 26190.
 - 1. Additional fees may be required for fingerprinting, training, or psychological testing, in addition to the application fee.
 - 2. Full payment of the remainder of the application fee will be required upon issuance of a license.
 - 3. Payment of related fees may be waived if the applicant is a duly appointed reserve peace officer as defined in Penal Code § 830.6 (a) or (b) (Penal Code § 26170).

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- (c) Additional documents may be requested of the applicant as required to complete the application process (e.g., photograph).
- (d) The applicant shall submit proof of ownership or registration of each firearm to be licensed.

Within 90 days of receiving the completed application for a new license, the [Department/Office] shall give written notice to the applicant of the [Department/Office]'s initial determination, based on its preliminary investigation, whether or not the applicant is a disqualified person. This shall include a final determination on whether the applicant is an unlawful user of or addicted to any controlled substance described in 18 USC 922 (g)(3) (Penal Code § 26202).

If the determination is that the applicant is not a disqualified person, the notice shall inform the applicant to proceed with the training requirements as specified in Penal Code § 26165.

208.4.2 PHASE TWO

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

- (a) Fingerprints and related information required by the California DOJ shall be submitted to the California DOJ as provided in Penal Code § 26185.
- (b) The Chief of Police may, based upon criteria established by the Chief of Police, require that the applicant be referred to an authorized psychologist used by the [Department/Office] for psychological testing. The cost of such psychological testing shall be paid by the applicant but shall not exceed the reasonable costs to the [Department/Office]. The Chief of Police may allow non-resident applicants to complete the psychological assessment virtually or at an approved location in the applicant's state of residence (Penal Code § 26190).
- (c) The applicant shall complete a course of training approved by the [Department/Office], which complies with Penal Code § 26165.
- (d) The applicant shall submit any firearm to be considered for a license to the Rangemaster or other [department/office] authorized gunsmith, at no cost to the applicant, for a full safety inspection. The Chief of Police reserves the right to deny a license for any firearm that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).
- (e) The applicant shall successfully complete a firearms safety and proficiency examination with the firearm to be licensed, to be administered by the [department/office] Rangemaster, or provide proof of successful completion of another [department/office]-approved firearms safety and proficiency examination, including completion of all releases and other forms. The cost of any outside inspection/examination shall be the responsibility of the applicant.

Once the Chief of Police or authorized designee has verified the successful completion of phase two, the license to carry a firearm will either be granted or denied (Penal Code § 26170).

208.5 ISSUED FIREARMS PERMITS

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

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- (a) The license will be subject to any and all reasonable restrictions or conditions the Chief of Police has deemed warranted, including restrictions as to the time, place, manner, and circumstances under which a person may carry the firearm (Penal Code § 26200(b)).
 - 1. All such restrictions or conditions shall be conspicuously noted on any license issued (Penal Code § 26200(c)).
 - 2. The licensee will be required to sign a Restrictions and Conditions Agreement. Any violation of any of the restrictions and conditions may result in the immediate revocation of the license.
- (b) The license shall clearly identify the licensee, bear a photograph and fingerprints of the licensee with the expiration date, type of firearm, restrictions, and other pertinent information as described by Penal Code § 26175. The license may be laminated (Penal Code § 26175).
- (c) The license will be valid for a period not to exceed two years from the date of issuance (Penal Code § 26220).
 - 1. A license issued to a state or federal magistrate, commissioner, or judge will be valid for a period not to exceed three years.
 - 2. A license issued to any reserve peace officer as defined in Penal Code § 830.6(a) or (b), or a custodial officer employed by the Sheriff as provided in Penal Code § 831.5 will be valid for a period not to exceed four years, except that such license shall be invalid upon the individual's conclusion of service as a reserve officer.
- (d) If the licensee's place of residence was the basis for issuance of a license and the licensee moves out of the county of issuance, the license shall expire 90 days after the licensee has moved (Penal Code § 26210).
- (e) The licensee shall notify this [department/office] in writing within 10 days of any change of place of residency. Within 10 days of receiving such notice, the [Department/Office] shall notify the California DOJ (Penal Code § 26210).

208.5.1 AMENDMENTS TO LICENSES

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

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

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

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208.5.2 REVOCATION OF LICENSES

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

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

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

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

208.5.3 LICENSE RENEWAL

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

- (a) Verifying all information submitted in the original application under penalty of perjury.
- (b) Completing a training course pursuant to Penal Code § 26165.
- (c) Submitting any firearm to be considered for a license renewal to the Rangemaster for a full safety inspection. The Chief of Police reserves the right to deny a license for any firearm that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).
- (d) Paying the applicable renewal application fee.

Within 90 days of receiving the completed application for a renewal license, the [Department/Office] shall give written notice to the applicant of the [department/office]'s initial determination whether or not the applicant is a disqualified person (Penal Code § 26202).

If the determination is that the applicant is not a disqualified person, the notice shall inform the applicant to proceed with the training requirements as specified in Penal Code § 26165. The [Department/Office] shall then submit the renewal notification to the California DOJ as provided in Penal Code § 26185.

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

The [Department/Office] shall not issue a renewal license unless confirmation has been received from the California DOJ that the applicant is eligible to possess, receive, own, or purchase a firearm (Penal Code § 26185).

208.6 WRITTEN NOTICE FOR DENIAL OF LICENSE

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

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

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

208.6.1 ADDITIONAL REQUIREMENTS

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

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

208.6.2 ADDITIONAL REPORTING REQUIREMENTS

The [Department/Office] shall submit the required prescribed information in Penal Code § 26202(f) to the National Instant Criminal Background Check System Index within 5 days upon determination that an applicant is a disqualified person due to being an unlawful user of, or addicted to, any controlled substance (Penal Code § 26202(f)).

208.7 [DEPARTMENT/OFFICE] REPORTING AND RECORDS

The [Department/Office] shall maintain a record of the following and immediately provide copies of each to the California DOJ (Penal Code § 26225):

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

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

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

208.8 CONFIDENTIAL RECORDS

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

208.9 LIMITED BUSINESS LICENSE TO CARRY A CONCEALED FIREARM

The authority to issue a limited business license to carry a concealed firearm to a non-resident applicant is granted only to the Sheriff of the county in which the applicant works. A chief of a municipal police department may not issue limited licenses and these applicants should be referred to the Sheriff's Office (Penal Code § 26150).

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

- (a) The applicant physically spends a substantial period of working hours in the applicant's principal place of employment or business within the City of Banning (Penal Code § 26150).
- (b) Such a license will be valid for a period not to exceed 90 days from the date of issuance (Penal Code § 26220).
- (c) The applicant shall provide a copy of the license to the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).
- (d) Any application for renewal or reissuance of such a license may be granted only upon concurrence of the original issuing authority and the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).

208.10 POLICY AVAILABILITY

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

Retiree Concealed Firearms

209.1 PURPOSE AND SCOPE

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

209.2 POLICY

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

209.3 LEOSA

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

- (a) Separated from service in good standing from this [department/office] 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/office].
- (c) Has not been disqualified for reasons related to mental health.
- (d) Has not entered into an agreement with this [department/office] 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.

209.3.1 AUTHORIZATION

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

- (a) In possession of photographic identification that identifies him/her as having been employed as a law enforcement officer, and one of the following:
 - 1. An indication from the person's former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement agency to meet agency-established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.
 - 2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.

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- (b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
- (c) Not prohibited by federal law from receiving a firearm.
- (d) Not in a location prohibited by California law or by a private person or entity on his/her property if such prohibition is permitted by California law.

209.3.2 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 Banning 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/Office] to meet the active duty standards for qualification to carry a firearm.

209.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE

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

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

209.4.1 QUALIFIED RETIRED RESERVES

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

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

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209.4.3 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION

The Banning Police Department shall provide an identification card with a CCW Approved endorsement to honorably retired peace officers from any jurisdiction that this [department/office] 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/office] 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/office] for the issuance of a CCW Approved endorsement.

209.5 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.

209.5.1 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/Office] for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the [Department/Office].
- (b) Remain subject to all applicable [department/office] policies and federal, state and local laws.
- (c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.
- (d) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.

209.5.2 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/office] at the retired officer's expense.
- (b) Remain subject to all applicable [department/office] 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/Office].

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

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

A CCW endorsement for any officer retired from this [department/office] 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 (Penal Code § 25470).

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

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2. The Watch Commander should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief of Police.
3. The personal and written notification should be as follows:
 - (a) The retiree's CCW endorsement is immediately and temporarily suspended.
 - (b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.
 - (c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
4. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Watch Commander should attempt to make the above notice of temporary suspension through another law enforcement officer. For example, if a retiree was arrested or detained by a distant agency, the Watch Commander may request that a law enforcement officer from that agency act as the agent of the [Department/Office] to deliver the written notification.

209.7 FIREARM QUALIFICATIONS

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

Chapter 3 - General Operations

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this [department/office] 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/Office] 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 DUTY TO REPORT EXCESSIVE FORCE

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

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

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/Office]. 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 his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- (k) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.
- (l) Training and experience of the officer.
- (m) Potential for injury to officers, suspects, bystanders, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

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

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

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

300.3.4 RESTRICTIONS ON THE USE OF CAROTID CONTROL HOLD

Officers of this [department/office] 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 blood flow and may render the person unconscious in order to subdue or control the person (Government Code § 7286.5).

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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 Banning 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/office] 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" and "restraint asphyxia," 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 should promptly check and continuously monitor the individual's condition for signs of medical distress (Government Code § 7286.5).

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300.4 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts (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 themselves 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 themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (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 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.

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300.4.2 DISPLAYING OF FIREARMS

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

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

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

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this [department/office] 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/Office] may require the completion of additional report forms, as specified in [department/office] policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 REPORT RESTRICTIONS

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

300.5.2 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.

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- (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.

300.5.3 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

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

300.6 MEDICAL 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.

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)):

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

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

300.7.1 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.

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 TRAINING REQUIREMENTS

Required annual training shall include:

- (a) Legal updates.

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- (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.

300.8.2 STATE-SPECIFIC TRAINING REQUIREMENTS

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

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

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

300.10 USE OF FORCE COMPLAINTS

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

300.11 POLICY REVIEW

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

300.12 POLICY AVAILABILITY

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

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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)).

Deadly Force Review

301.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a process to review the use of deadly force by employees of this department. The Use of Deadly Force Review process is part of the personnel administrative investigative process.

301.2 POLICY

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

It is the policy of this department to convene a Use of Deadly Force Review Board when the use of deadly force by an employee results in serious injury or death to a person.

The Use of Deadly Force Review Board may also be convened to review the circumstances surrounding accidental or intentional discharges of a firearm, whether the employee is on or off duty, excluding range training or recreational use, at the discretion of the Chief of Police.

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

301.3 COMPOSITION OF THE BOARD

The Use of Deadly Force Review Board shall be comprised of the following personnel, when possible:

- One Lieutenant
- One Sergeant
- One peer of the officer involved

Personnel assigned to the Use of Deadly Force Review Board shall not have been involved in the incident under review or any type of investigative (Criminal or Administrative) action related to the incident. In the event a Lieutenant is not available or eligible to chair the board, a second sergeant will be utilized.

The senior ranking member will serve as chairperson.

The Chief of Police will convene the Use of Deadly Force Review Board, as necessary, and select the board members. It will be the responsibility of every Supervisor of the involved employee(s) to notify the Chief of Police and appropriate Lieutenant of any incidents potentially requiring board review. Personnel assigned to conduct the administrative investigation will ensure that all relevant reports, documents, and materials are available for consideration during the presentation to the board.

The Chief of Police has the discretion to relinquish the Deadly Force Review Board's responsibilities to an outside agency.

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301.4 BOARD RESPONSIBILITIES

The Use of Deadly Force Review Board is empowered to review the administrative investigation into the circumstances of an incident, as presented to them by the lead administrative investigator. Board members may request further investigation if after the presentation and review of materials the consensus of the board believes further information is required to make a decision. Board members have the ability to discuss the provided materials amongst themselves before making a decision during the meeting. The involved employee will be notified of when the meeting is being convened.

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

The board does not have the authority to recommend discipline. The board shall make a finding and such finding will be limited to one of the following:

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

A finding will represent the consensus of the board. After the board has concluded, the board chairperson will verbally notify the lead administrative investigator of the board's decision. The lead administrative investigator shall notify the Chief of Police of the board's decision and document it in the Use of Deadly Force Review Board Summary form, which shall be signed by all three board members and the Chief of Police. After review by the Chief of Police and completion of the administrative investigation, the involved employee will be notified of the board's decision.

At the conclusion of the review process, a copy of all relevant reports and information will be filed with the Chief of Police and stored according to department policy and procedures.

Board members shall not discuss any information provided to them during the presentation, except amongst themselves during the review process.

Handcuffing and Restraints

302.1 PURPOSE AND SCOPE

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

302.2 POLICY

The Banning 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/office] training. Restraint devices shall not be used to punish, to display authority, or as a show of force.

302.3 USE OF RESTRAINTS

Only members who have successfully completed Banning 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.

302.3.1 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.

302.3.2 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 themselves or others, or damage property.

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

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determination that such restraints are necessary for the safety of the detainee, officers, or others (Penal Code § 3407; Penal Code § 6030). See the Transporting Persons in Custody Policy for guidelines relating to transporting pregnant persons.

302.3.3 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.

302.4 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/Office]. 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.

302.5 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.

302.6 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/office]-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

302.7 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/Office] 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).

[See attachment: 2017 WRAP Directive.pdf](#)

302.7.1 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.

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- (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.
- (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.

302.8 AUTHORIZED RESTRAINT

Officers shall only use restraints approved by the Department.

302.9 REQUIRED DOCUMENTATION

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

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

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

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

302.10 TRAINING

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

- (a) Proper placement and fit of handcuffs and other restraint devices approved for use by the [Department/Office].
- (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.

KINETIC ENERGY PROJECTILE GUIDELINES

303.1 PURPOSE AND SCOPE

This guideline addresses the training and use of extended range impact devices. The Police department recognizes the combative, non-compliant, or violent subjects cause handling and control problems that require special training and equipment. This department is committed to reducing the potential for violent confrontations. Thus, the department has adopted the use of these devices to assist with the de-escalation of these potentially 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.

303.1.1 DEPLOYMENT

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

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

303.1.2 EXAMPLES OF CIRCUMSTANCES APPROPRIATE FOR DEPLOYMENT

Examples include, but are not limited to, the following types of situations where the subject:

- (a) is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions;
- (b) has made credible threats to harm himself or others;
- (c) is engaged in riotous behavior or is throwing rocks, bottles, or other dangerous projectiles at citizens and/or officers.
- (d) there is probable cause to believe the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

303.2 DEFINITIONS

- (a) **Kinetic Energy Impact Projectiles (also referred to as "Extended Range Impact Ammunition)** - Flexible or non-flexible projectiles, which are intended to incapacitate a subject with a minimal potential for causing death or serious injury, when compared to conventional projectiles.
- (b) **Safety Priorities** - The department safety priorities are established as follows:
 - 1. Hostages
 - 2. Involved non-subject civilians

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3. Police Officers

4. Suspects

(c) **Subject** - The person who is the focus of the police operation.

303.3 PROCEDURE

303.3.1 EXTENDED RANGE IMPACT DEVICE

There are many projectiles used in extended range devices. The primary types used by the Banning Police Department are the Flexible Baton 12 gauge, and / or the Non-Flexible/Flexible -37/40 mm. Only Department approved kinetic energy munitions shall be carried and deployed.

303.3.2 TECHNICAL ASPECTS-KINETIC ENERGY IMPACT PROJECTILES

(a) Flexible Baton -12 gauge

(b) Non-Flexible or Flexible-37mm

(c) Non-Flexible or Flexible-40mm

303.3.3 EVALUATION OF PROJECTILES

Kinetic energy impact projectiles will be evaluated on the following criteria:

(a) Accuracy

(b) Effectiveness

(c) Potential for causing death or serious physical injury

303.3.4 ACCURACY

This is the primary consideration, since proper shot placement greatly assists in controlling the other two evaluation criteria. This will be evaluated and based on the anticipated ranges of deployment. A minimal standard of accuracy for such rounds is:

(a) 12 inch group at 15 yards for the 12-gauge system.

(b) 12 inch group at 25 yards for the 37 and 40 -mm systems.

This minimum standard is to be achieved from a secured rest.

303.3.5 EFFECTIVENESS

This is the potential of the round to cause incapacitation and reduce the subject's ability to continue their inappropriate behavior.

The level of energy necessary to cause incapacitation creates the potential for injury, but when properly deployed, there is a low-probability for causing serious physical injury or death.

303.3.6 POTENTIAL FOR CAUSING DEATH OR SERIOUS PHYSICAL INJURY

The potential for causing death or serious physical injury with such projectiles is a reality. This potential is greatly reduced when impacts to the head and neck are avoided, and when appropriate

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medical examination is provided in cases where the subject is struck in an area that might conceal a closed injury, including such areas as the chest, back, thoracic and abdominal cavities and the groin.

When engaging a target, the officer should evaluate the effectiveness of each round during the volley. Compliance and/or incapacitation is the desired goal, and alternative target areas/response considerations will be based on the circumstances the officer is encountering and the established department safety priorities.

303.3.7 DEPLOYMENT AREAS

The projectiles will be delivered to suspect target areas based on the circumstances, the established priorities, and the level of force authorized.

The PR-24 training chart is the recognized department model for determining contact areas for kinetic energy impact weapons, based on the potential for injury.

(a) Green Areas - These areas will be considered when incapacitation is necessary and minimal potential for injury is appropriate.

(b) Yellow/Red Areas - These areas will be considered when an escalation of force above green areas is necessary and appropriate acknowledging an increase in the potential for death or serious physical injury.

(c) Head/Neck - Intentional impacts to these areas will be avoided unless the use of deadly force is justified, necessary, and appropriate.

303.3.8 DEPLOYMENT DISTANCES AND CONSIDERATIONS

Before discharging projectiles, the officer should consider the following factors:

- (a) Severity of the crime or incident,
- (b) Subject's capability to pose an imminent threat to the safety of officers or others,
- (c) If the subject is actively resisting arrest or attempting to evade arrest by flight,
- (d) The credibility of the subject's threat as evaluated by the officers present and physical capability,
- (e) The proximity of weapons available to the subject,
- (f) The officer's versus the subject's physical factors (i.e., age, size, relative strength, skill level, injury/exhaustion, the number of officer(s) versus subject(s),
- (g) The availability of other force options and their possible effectiveness,
- (h) Distances and angle to target,
- (i) Type of munitions employed,
- (j) Type of thickness of subject's clothing,

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- (k) The subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.
- (l) Officers will keep in mind the manufacturer's recommendations regarding deployment when using kinetic energy projectile devices, but are not solely restricted to use according to these manufacturer recommendations. Each tactical situation must be evaluated on the totality of the circumstances at the time of deployment.
- (m) The subject's proximity to others,
- (n) The location of the subject,

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 practical due to 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.

303.3.9 SHOT PLACEMENT

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

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

303.4 DEPLOYMENT TECHNIQUES FOR 12 GAUGE

- (a) **Dedicated System**- The issued shotgun will be dedicated to extended range impact projectiles, and marked in some fashion consistent with such designation. Officers assigned will disassemble such weapons, and visually/physically inspect the chamber and magazine, each time the weapon comes under their control (beginning of shift, and/or any time the weapon was out of their direct control), to ensure the total absence of non-extended range impact ammunition.
- (b) **Transition System** - When a qualified officer transitions the weapon from lethal to extended range impact ammunition, the following procedures shall be preformed. The officer is solely responsible for the condition of the weapon (lethal vs. extended range impact ammunition). Absent compelling circumstances, officers who must transition from conventional ammunition to extended range impact ammunition will employ the two person rule for loading. The two person rule is a safety measure achieved by having a second officer watch the loading process to ensure that the weapon is completely emptied of conventional ammunition.

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1. All duty ammunition will be removed from the weapon and remain under the control of the officer.
 2. The officer will visually and physically inspect the chamber and magazine to insure that all duty ammunition is removed from the shotgun. The officer will then load the extended range impact rounds into the shotgun.
 3. Visually inspecting each round prior to insertion, ensuring that each round is in fact an extended range impact round.
- (c) Before using either the dedicated or transitional delivery system, the officer shall consider:
1. The level of force being confronted
 2. The proximity/access of subject to officer
 3. The department safety priorities
- (d) The officer will then determine if lethal cover is necessary and appropriate. Special consideration of lethal cover should be made in all cases involving subjects with firearms.

303.5 DEPLOYMENT TECHNIQUES FOR 37 AND 40 MILLIMETER

The Watch Commander and the department's Emergency Tactical Unit will maintain all 37 and 40-millimeter extended range impact delivery systems. This system will be deployed with a lethal cover officer in circumstances consistent with:

- (a) The level of force being confronted
- (b) The proximity/access of subject to officer
- (c) The department safety priorities

303.6 HANDLING OF INJURED SUSPECTS

Suspects who are struck by extended range impact projectiles shall be transported to medical facility for examination.

303.7 REPORTING USE OF KINETIC ENERGY PROJECTILES

Any member who accidentally or intentionally deploys an extended range impact device listed within this section shall make a verbal notification to the on-duty Watch Commander as soon as possible and document the application pursuant to Policy Manual § 300.4 and 300.5.

303.8 TRAINING

The Training Manager shall ensure that all personnel who are authorized to carry a Kinetic Energy Projectile device have been properly trained and certified to carry the device and are retrained or re-certified as necessary.

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

Control Devices and Techniques

304.1 PURPOSE AND SCOPE

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

304.1.1 REQUIRED CONTROL DEVICE DEPLOYMENT

Uniformed officers working patrol or any uniformed assignment shall carry on their equipment belt an authorized baton/ASP and a working canister of oleoresin capsicum spray.

304.2 POLICY

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

304.3 ISSUING, CARRYING AND USING CONTROL DEVICES

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

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

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

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

304.4 RESPONSIBILITIES

304.4.1 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.

304.4.2 RANGEMASTER RESPONSIBILITIES

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

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

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

304.5 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.

304.6 TEAR GAS GUIDELINES

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

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

304.7 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.

Code Compliance Officers authorized to carry oleoresin capsicum (OC) spray may only consider its use for defensive purposes. If a Code Compliance Officer deploys (OC) the on-duty Watch Commander will be notified immediately, along with the Lieutenant supervising the Code Compliance Department. The on-duty Watch Commander will document the incident using the use-of-force documentation process.

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304.7.1 OC SPRAY

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

304.7.2 PEPPER PROJECTILE SYSTEMS

The Pepper Projectile Launcher is intended for use in those situations where physical contact to control a violent or potentially violent subject is likely and the use of force is authorized pursuant to existing department policy.

- (a) Program Coordinator - A sergeant will be designated as the program coordinator. The program coordinator's responsibilities shall include the following:
 - 1. Inspection and maintenance of all program related equipment;
 - 2. Inventory and ordering of equipment and supplies;
 - 3. Maintaining training records related to the program;
 - 4. Training all sworn personnel in the use and deployment of the Pepper Projectile Launcher system.
 - 5. Maintain the air supply for refilling all Pepper Projectile Launcher systems.
 - 6. Each scuba tank must be visually inspected by a certified scuba shop every year and must be hydrostatically tested every five years.
 - 7. Each tank should contain at least 2000 psi.
- (b) Launchers
 - 1. The launchers shall be stored within the station between shifts and employees authorized to carry the weapon will sign out the equipment at the beginning of their shift.
- (c) Projectiles
 - 1. The only projectiles to be used in the Pepper Projectile Launchers are those approved by the department range staff and only designated Pepper Projectile Launchers are to be used to fire the projectiles.
 - 2. There are several different types of projectiles for the Pepper Projectile Launcher. Only two types of projectiles will be utilized by the Banning Police Department, as follows:
 - (a) Red OC Powder filled These projectiles are red in color and contain a mixture of powdered OC and talcum powder. When utilizing the OC-filled projectiles, personnel should take weather conditions into consideration. Even a moderate amount of wind may dissipate the OC before it is effective, or may blow the OC back toward officers. Rainy conditions may also limit the effectiveness of these projectiles and not all projectiles will break on impact.
 - (b) Purple Training rounds- This "inert" projectile is purple in color and is filled with talcum powder. These projectiles are for training purposes and are not

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for use in the field. These projectiles are not to be stored with the launcher and shall not be carried in the field.

(d) Deployment

- (a) Officers encountering a situation that warrants the use of a pepper projectile system shall notify a supervisor as soon as practical.
- (b) A supervisor shall respond to all pepper projectile system deployments 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.
- (c) Whenever possible, the supervisor in control of the incident should not be the individual using the Pepper Projectile Launcher. The intent of this suggestion is that the employee responsible for control of the incident remains as a supervisor and decision-maker. For this reason, supervisors should delegate the Pepper Projectile Launcher deployment to a trained employee.
- (d) Employees who are authorized to carry the Pepperball Launcher in their patrol unit shall note the launcher number on the watch commander log. The employee is responsible for inspecting the equipment at the beginning of his/her shift. The inspection should include:
 - (a) The high-pressure air tank should be charged to between 2000 and 3000 psi and should be free from visible damage.
 - (b) The tank shall be attached to the launcher with the on/off knob in the off position.
 - (c) The launcher should be free from visible damage and shall have no projectiles in the chamber. The launcher's projectile hopper should be filled with red OC-filled projectiles.
- (e) The launcher and related equipment are to be secured in the supplied case. The case should also be checked for visible damage. It is important that the launcher and attachments be stored in the case to prevent damage.

(e) Use

- 1. The Pepper Projectile Launcher may be used under the following circumstances:
 - (a) When a subject exhibits violent or potentially violent behavior that threatens the safety of others and attempts to subdue the subject by conventional means of persuasion, escort control, self-defense techniques and/or pain compliance measures have not been or reasonably appear unlikely to be effective, or;
 - (b) To defend one's self or another from an aggressive or attacking animal, or;
 - (c) Crowd control/disbursement in civil disobedience situations.
- (f) When the decision is made to use the Pepper Projectile Launcher, the following factors shall be taken into consideration:

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- (a) Whenever possible, at least one other officer should be present and in close proximity at a scene before the Pepper Projectile Launcher is deployed in order to provide lethal cover if it becomes necessary.
 - (b) Whenever possible, verbal warnings shall be given to the target subject before using the Pepper Projectile Launcher.
 - (c) Whenever possible, other law enforcement personnel present should be alerted to the imminent use of the Pepper Projectile Launcher.
 - (d) "Proximity" shots may be fired near a subject to either deploy a cloud of OC powder, or to encourage the subject to comply with directives without actually striking the subject with projectiles.
 - (e) Proximity shots can be fired near the subject's feet or near other portions of the subject's body if a hard surface is present for impact of the projectiles. Extreme caution must be taken to prevent unintentionally striking the subject in the head, neck, spine and groin.
 - (f) The projectiles are not likely to ricochet off hard surfaces with sufficient energy to cause injury.
 - (g) If it becomes necessary to fire projectiles at a subject, it may be necessary to fire multiple shots to achieve compliance. Personnel firing at a subject should continuously reassess whether or not compliance has been achieved or the situation has changed.
 - (h) 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, shot placement of pepper projectiles shall be consistent with instruction provided through the department approved training program with the understanding the potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, officers deploying the pepper projectile launcher 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.
- (g) Follow-up Medical Treatment
- (a) Following the use of the Pepper Projectile Launcher, an immediate assessment shall be made to ensure that no injuries have been sustained. If injuries have occurred, appropriate medical treatment shall be obtained.
- (h) Decontamination
- (a) Decontamination of a subject who has been exposed to powdered OC is the same as for a subject who has been exposed to aerosol OC. CDF shall be contacted and requested to assist with the decontamination that will consist of flushing the eyes with eye wash or water. The steps taken to decontaminate the subject shall be documented in the criminal report prepared following the incident.

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- (b) Since not all Pepperball projectiles will break when fired at a subject, care should be taken to check the area around where the Pepper Projectile Launcher was deployed to make sure no unbroken rounds remain that could be picked up by the general public. Unbroken Pepperball rounds should never be placed back into a Pepper Projectile Launcher. Simply step on the unbroken round and render it useless.
- (i) Reporting
 - (a) Photographs shall be taken of any injury sustained by a subject after the injuries have been evaluated, treated (if necessary), and cleaned. The photographs and/or film shall be logged into evidence under the criminal report file number.
 - (b) The following information shall be included in the crime report:
 - (a) Approximate number of rounds fired
 - (b) Number of impacts on the subject
 - (c) The distance between the subject and engaging officer at the time of deployment
 - (d) Any injuries and medical treatment provided
 - (e) Any third party contamination or impact
 - (c) Each deployment of a pepper projectile system shall be documented. Unintentional discharges shall be promptly reported to a supervisor and documented appropriately. Only non-incident use of a pepper projectile launcher, such as training and product demonstrations, is exempt from the reporting requirement.

304.7.3 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.

304.8 TRAINING FOR CONTROL DEVICES

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

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

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Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

304.9 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.

Conducted Energy Device

305.1 PURPOSE AND SCOPE

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

305.2 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.

305.3 ISSUANCE AND CARRYING CEDS

Only members who have successfully completed [department/office]-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/office] inventory.

Officers shall only use the CED and cartridges/magazines that have been issued by the [Department/Office]. 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.

305.3.1 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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305.4 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.

305.4.1 MAINTENANCE/ CARE/ DATA PORT TRACKING AND TRAINING

The primary responsibility for maintaining and caring for the Electronic Control Device Weapon shall rest with the department Armorer or designee. The department Armorer or designee shall:

- (a) Log and track all Electronic Control Device Weapon and munitions.
- (b) The Department Armorer in conjunction with his/her duties shall perform random audit downloads of department issued Conducted Electrical Weapons. The audit will also consist of the functioning of the device as well as, testing and checking for abuse of the Conducted Electrical Weapon.
- (c) Order and maintain adequate munitions and maintenance supplies.
- (d) Conduct inspections of the Electronic Control Device Weapon.

305.5 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.

305.5.1 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, themselves, or others.

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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.

305.5.2 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.
- (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 capicum (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.

305.5.3 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.

305.5.4 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.

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- (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.

Given that on certain devices (e.g., TASER 10™) each trigger pull deploys a single probe, the officer must pull the trigger twice to deploy two probes to create the possibility of neuro-muscular incapacitation.

305.5.5 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.

305.5.6 DANGEROUS ANIMALS

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

305.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry [department/office] 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.

305.6 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/office]-approved process to preserve the data.

305.6.1 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

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305.7 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.
- (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).

305.8 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.

305.9 TRAINING

Personnel who are authorized to carry the CED shall be permitted to do so only after successfully completing the initial [department/office]-approved training. Any personnel who have not carried

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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 Sergeant. 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 Sergeant 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.

The Training Sergeant 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.

Officer-Involved Shootings and Deaths

306.1 PURPOSE AND SCOPE

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

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

306.2 POLICY

The policy of the Banning Police Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner.

306.3 TYPES OF INVESTIGATIONS

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

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

306.4 CONTROL OF INVESTIGATIONS

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

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

306.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

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

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief of Police and with concurrence from the other agency. The Chief of Police has the discretion to relinquish all or a portion of the Banning Police Department's responsibilities to an outside agency.

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306.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

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

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

306.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency. The Chief of Police has the discretion to relinquish all or a portion of the Banning Police Department's responsibilities to an outside agency.

306.4.4 INVESTIGATION RESPONSIBILITY MATRIX

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

	Criminal Investigation Suspect(s)	Criminal Investigation of Officer(s)	Civil Investigation of	Administrative Investigation
BPD Officer in This Jurisdiction	BPD Investigators	Banning (TBD) Agency	PD or BPD Outside Team	Civil Liability BPD Professional Standards Unit
Allied Agency's Officer in This Jurisdiction	BPD Investigators	(TBD) Agency	Outside Involved Department	Officer's Involved Department
BPD Officer in Another Jurisdiction	Agency where incident occurred	Decision by agency where incident occurred	BPD Civil Liability BPD Professional Standards Unit	

306.5 INVESTIGATION PROCESS

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

306.5.1 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.
- (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.

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- (c) If necessary, the supervisor may administratively order any officer from this department to immediately provide public safety information 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.
- (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.
- (g) 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. An Officer's weapon should only be taken from the officer by the Investigator handling the shooting investigation for evidence purposes, the officer will then be provided with a comparable replacement weapon.

306.5.2 WATCH COMMANDER RESPONSIBILITIES

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

All outside inquiries about the incident shall be directed to the Watch Commander until he/she is relieved by the Chief of Police, Captain, or Lieutenant.

306.5.3 NOTIFICATIONS

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

- Chief of Police
- Captain
- Lieutenant
- [OIS protocol] rollout team
- Outside agency investigator (if appropriate)
- Professional Standards Unit supervisor
- Civil liability response team

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- Psychological/peer support personnel
- Chaplain
- Coroner (if necessary)
- Involved officer's agency representative (if requested)
- Press Information Officer

All outside enquiries about the incident shall be directed to the Watch Commander until the arrival of the Chief of Police or his/her designee.

306.5.4 SUPERVISOR RESPONSIBILITIES

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

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
 1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any BPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
 2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Watch Commander and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional BPD members until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
 1. Each involved BPD officer should be given an administrative order not to discuss the incident with other involved officers or BPD members pending further direction from a supervisor.
 2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

306.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

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- (a) Any request for legal or union representation will be accommodated.
 - 1. Involved BPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
 - 2. Requests from involved non-BPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).
- (d) A licensed psychotherapist shall be provided by the [Department/Office] to each involved BPD officer. A licensed psychotherapist may also be provided to any other affected BPD members, upon request.
 - 1. Interviews with a licensed psychotherapist will be considered privileged.
 - 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
 - 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Communications between the involved officer and a peer support member are addressed in the Wellness Program Policy.

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

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

306.6 CRIMINAL INVESTIGATION

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

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

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

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- (a) BPD supervisors and Professional Standards Unit personnel should not participate directly in any voluntary interview of BPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of the officer's choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally, or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

306.6.1 REPORTS BY INVOLVED BPD OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this [department/office] shall retain the authority to require involved BPD 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 BPD officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

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

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

306.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

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

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

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1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the [Department/Office].
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.

306.6.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Detective Bureau supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. [Department/Office] investigators may be assigned to work with investigators from an outside agency and may be assigned to separately handle the investigation of any related crimes not being investigated by the outside agency.

All related [department/office] reports, except administrative and/or privileged reports, will be forwarded to the designated Detective Bureau supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Administrative Officer.

306.7 ADMINISTRATIVE INVESTIGATION

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

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

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- (a) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
 - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (b) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
 - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
 - 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
 - 3. Administrative interviews should be recorded by the investigator. The officer may also record the interview (Government Code § 3303(g)).
 - 4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
 - 5. The Professional Standards Unit shall compile all relevant information and reports necessary for the [Department/Office] to determine compliance with applicable policies.
 - 6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
 - 7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

306.8 AUDIO AND VIDEO RECORDINGS

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

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted

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to review available MAV, body-worn video, or other video or audio recordings with approval of assigned investigators or a supervisor.

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

306.9 REPORTING

If the death of an individual occurs in the Banning Police Department jurisdiction and qualifies to be reported to the state as a justifiable homicide, the Lieutenant will ensure that the Records Supervisor is provided with enough information to meet the reporting requirements (Penal Code § 196; Penal Code § 13022).

306.10 CIVIL LIABILITY RESPONSE

A member of this [department/office] may be assigned to work exclusively under the direction of the legal counsel for the [Department/Office] 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.

306.11 DEBRIEFING

Following an officer-involved shooting or death, the Banning Police Department should conduct both a Critical Incident Stress Debriefing and a tactical debriefing. See the Wellness Program Policy for guidance on Critical Incident Stress Debriefings.

306.11.1 TACTICAL DEBRIEFING

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

306.12 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the supervisor and [department/office] representative responsible for each phase of the investigation. Releases will be available to the Watch Commander, Investigation, Administrative Officers, Chief of Police and Press Information Officer in the event of inquiries from the media.

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

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307.1 PURPOSE AND SCOPE

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

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

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

307.2 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

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

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

307.2.1 HANDGUNS

The authorized [department/office]-issued handguns are the Glock Model G45, 9mm semi-automatic handgun and the Sig Sauer, 9mm semi-automatic handgun. Department personnel may also carry personally purchased firearms that have been by the Department.

307.2.2 SHOTGUNS

The authorized [department/office]-issued shotgun is the Benelli Semi-Automatic. The following additional shotguns are approved for on-duty use:

MAKE	MODEL	CALIBER
Benelli	Semi-Auto	12-Gauge
Remington	Pump Action	12-Gauge
Mossberg	Pump Action	12-Gauge

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

307.2.3 DUTY WEAPONS

Other than the authorized duty handgun, the Department maintains and/or issues weapons for specialized applications, only those personnel who have received training and or have been authorized to use them by the Department may use the weapons. These weapons will only be

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used in those situations as dictated by Department Policy, the Chief of Police or his/her designee. This includes:

- (a) Patrol Rifles
- (b) Submachine Guns
- (c) Optic/Scoped Firearms
- (d) Chemical Weapons Delivery Firearms
- (e) Extended Range Impact Devices
- (f) Pepperball Guns

307.2.4 PERSONALLY OWNED DUTY FIREARMS

Members desiring to carry an authorized but personally owned duty firearm must receive written approval from the Chief of Police or the authorized designee. Once approved, personally owned duty firearms are subject to the following restrictions:

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

307.2.5 AUTHORIZED SECONDARY HANDGUN

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

- (a) The handgun shall be in good working order and on the [department/office] list of approved firearms.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the [Department/Office].
- (d) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (e) The handgun shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (f) Ammunition shall be the same as [department/office] issue. If the caliber of the handgun is other than [department/office] issue, the Chief of Police or the authorized designee shall approve the ammunition.

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- (g) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the [department/office] qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.
- (h) Members shall provide written notice of the make, model, color, serial number and caliber of a secondary handgun to the Rangemaster, who will maintain a list of the information.

307.2.6 AUTHORIZED OFF-DUTY FIREARMS

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

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

307.2.7 AMMUNITION

Members shall carry only [department/office]-authorized ammunition. Members shall be issued fresh duty ammunition in the specified quantity for all [department/office]-issued firearms during the member's first scheduled firearms qualification each year. Replacements for unserviceable or

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depleted ammunition issued by the [Department/Office] shall be dispensed by the Rangemaster when needed, in accordance with established policy.

Members carrying personally owned authorized firearms of a caliber differing from [department/office]-issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above, at their own expense.

- (a) On-Duty - Ammunition carried on-duty shall meet with Department approval.
- (b) Off-Duty - No ammunition other than new factory shall be carried off-duty. Factory reloads are prohibited.

[See attachment: 2013 Approved Ammunition](#)

307.3 EQUIPMENT

Firearms carried on-duty shall be maintained in a clean, serviceable condition. Since the use of personally owned weapons is at the option of the individual officer, that officer will be responsible for the furnishing, maintenance and repair of such firearm.

307.3.1 REPAIRS OR MODIFICATIONS

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

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

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

307.3.2 HOLSTERS

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

307.3.3 TACTICAL LIGHTS

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

307.3.4 OPTICS OR LASER SIGHTS

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

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installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

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

307.4 OPTIONAL HANDGUN SIGHTING SYSTEM

The Banning Police Department authorizes the use and deployment of Micro Red Dot System (MRDS) commonly referred to as a "Red Dot Site" or RDS, on handguns in the following configurations: Primary/ Standard Duty, Off-Duty, and Back-Up handguns.

Department Personnel will utilize their own personal Department approved handgun capable of accommodating a department approved red dot optic, and all of the Department approved required RDS Handgun Equipment, none of which will be supplied by or the responsibility of the Banning Police Department.

Department Officers must attend and pass a Banning Police Certified Red Dot Sight Transition Course (Minimum of 8 hours). Certified Officers are required to qualify quarterly to maintain their certification.

Handguns, RDS sighting systems, and corresponding equipment must be of/ from a high-quality industry respected manufacturer, approved by the Rangemaster. All components must be in good working order and meet factory specifications; therefore, it is required that Officer consult with the Rangemaster prior to purchasing a handgun or optional MRDS, to ensure the suitability of their purchase.

307.4.1 HANDGUNS WITH READY TO MOUNT OPTIONS

The following handgun manufacturers offer examples of a ready to mount (Milled from factory/ stock) option on certain models:

- (a) Glock Modular Optic System (MOS)
- (b) S&W M&P OCompetition Optics Ready Equipment (CORE)
- (c) Sig Sauer Various Optic Ready Models
- (d) FN Optic Ready Models
- (e) Springfield Armory XO Optic Ready Models
- (f) Staccato DUO model

Alternate acceptable method of mounting a RDS to handgun is by having slide milled for a specific RDS sight, by a reputable company.

307.4.2 APPROVED RED DOT SIGHTS

The following RDS manufacturers are approved for Duty I Off-Duty employment based on reputation and track records in field use by multiple departments across USA:

- (a) Aimpoint (ACRO P2)

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- (b) Holosun (HE407c, HE507k X2, HE508T, HE509T)
- (c) Leupold (Delta Point Pro)
- (d) Trijicon (RMR,SRO)
- (e) Sig Sauer

Additionally, the handgun must have suppressor height sights to clear the optic window to overcome the potential of a mechanical failure of the MRDS. Officers will have to demonstrate proficiency with the use of their back-up iron sights during qualification

307.4.3 APPROVED HOLSTERS

Approved RDS Mounted Handguns shall be carried in a holster rated at a minimum Safety Level of (11), while the Officer carries on duty. The holster will have the consistent exterior finish as the Departments' standard duty belt issue. (IE; Safariland 6354 DO, 6362 RDS, 6392 RDS, Blackhawk T-Series)

307.4.4 ADDITIONAL HARDWARE

Additional required hardware like batteries (Duracell), mounting plate(C&H), extra screws will be needed by operator.

*A Duty Handgun with a Mounted RDS which has not been inspected and approved by the Rangemaster, or with which the member is not currently qualified with, shall not be deemed an "Approved firearm" for the purpose of this Department Policy.

307.5 RDS ON DEPARTMENT ISSUED GLOCK G45

Officers who are assigned department issued Glock G45's who want to utilize a Red Dot Sight (RDS) on the department firearm must do the following:

- (a) Purchase their own RDS as described in BPD Policy Section "Approved Red Dot Sights," noted above, or approved by the Department Range Master.
- (b) Purchase of RDS adapter plate(s) shall be pre-approved by department armor before duty use. Glock adapter plates shall not be utilized on department or personal firearms that are used on duty.
- (c) Purchase suppressor height sights.
- (d) Purchase their own RDS compatible Safety level of (II) duty holster, while the Officer carries on-duty.
- (e) Any equipment purchased by an officer related to the RDS, including the RDS, that is damaged or needs to be replaced, is the responsibility of the officer not the department.

307.5.1 DEPARTMENT ARMORER RESPONSIBILITIES

Once an officer has purchased the above listed items, they shall provide the items and department issued firearm to a member of the department's range staff who will ensure the equipment is approved per BPD Policy. The firearm and equipment will then be given to a department armorer who will do the following:

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- (a) Remove the sights and plate cover. All parts removed from the firearm will be K-Packed with the firearms serial number. The packaged parts will be stored in the department's armory.
- (b) Install and zero the suppressor height sights.
- (c) Install the RDS and adapter plate.

If the officer has any issues with the equipment once it is installed on the firearm the officer shall provide the firearm to the Department Armorer to fix the issue. The officer shall not attempt to fix the issue on their own. This is to prevent any potential damage to the department firearm.

Any officer that separates from the department that has RDS equipment on their department issued firearm, shall provide the firearm to the department armorer who shall:

- (a) Remove all the equipment purchased by the officer and give it back to that officer.
- (b) Reinstall and zero the original Glock sights.
- (c) Reinstall the plate cover.

307.5.2 RANGEMASTER RESPONSIBILITIES

Inspect the firearm once the RDS and suppressor height sights are installed to ensure the firearm is in compliance with department policy.

307.5.3 RDS INSTRUCTOR RESPONSIBILITIES

Inspect the firearm once the RDS and suppressor height sights are installed to ensure the firearm is in accordance with department policy.

If the officer has not yet completed the eight (8) hour RDS Transition Course, the instructor will schedule a date and time and certify the officer before the officer can use the firearm on or off duty, in accordance with the Optional Handgun Sighting System Section in this policy.

307.5.4 OFFICER RESPONSIBILITIES

Officers need to keep in mind that once the equipment is installed on the firearm, the firearm must be left undisturbed for a minimum of 24 hours to allow the Loctite to dry and cure before the firearm can be utilized.

307.6 SAFETY CONSIDERATIONS

- (a) Officers shall not unnecessarily display or handle any firearm.
- (b) Officers shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Officers shall not dry fire or practice quick draws except under Rangemaster supervision.
- (c) Officers shall not clean, repair, load or unload a firearm anywhere in the [Department/Office], except where clearing barrels are present.
- (d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle.

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- (e) Officers shall not place or store any firearm or other weapon on [department/office] premises except where the place of storage is locked.
- (f) 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.
- (g) Any weapon authorized by the [Department/Office] to be carried on- or off-duty that is found by the officer to be malfunctioning or needing service, shall not be carried. It shall be promptly presented to the [Department/Office] or a Rangemaster for inspection. Any weapon determined to be in need of service or repair during an inspection by the Department Rangemaster will be immediately removed from service. If the weapon is the officer's primary duty weapon, a replacement weapon will be issued to the officer until the duty weapon is serviceable.

307.6.1 INSPECTION AND STORAGE

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

Personally owned firearms may be safely stored in lockers at the end of the shift. [Department/Office]-owned firearms shall be stored in the appropriate equipment storage room. Handguns may remain loaded if they are secured in an appropriate holster. Shotguns and rifles shall be unloaded in a safe manner outside the building and then stored in the appropriate equipment storage room.

307.6.2 ADDITIONAL GUIDELINES FOR STORAGE

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles, or any other area under their custody or control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit [department/office]-issued firearms to be handled by anyone not authorized by the [Department/Office] to do so. Members should be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 17060; Penal Code § 25100; Penal Code § 25105; Penal Code § 25145).

307.6.3 ADDITIONAL GUIDELINES FOR 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 § 25140; Penal Code § 25452).

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

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

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307.6.4 ALCOHOL AND DRUGS

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

307.7 REPORT OF FIREARM DISCHARGE

Any member who discharges a weapon accidentally or intentionally, on or off-duty, except during training or recreational use, shall immediately make a verbal report to the on-duty supervisor by the fastest method possible and shall file a written report with their Lieutenant prior to the end of shift if on-duty and if off-duty, as directed by the on-duty supervisor.

All discharges of a firearm by any member of the Department shall be investigated to determine if the shooting is within the law and Department policy.

If an uninvolved Department member has knowledge of an unreported shooting incident they shall report the known facts to a supervisor.

Upon receipt of information regarding a Department member involved shooting, a supervisor shall respond to the scene of the incident and assume control of the scene. If the shooting is outside the City of Banning, the supervisor shall request a courtesy report to be completed by the appropriate jurisdiction in which the shooting occurred. If the jurisdiction cannot provide a report, the supervisor shall contact the Department's Detective Bureau Supervisor to respond and complete an investigation into the shooting.

After obtaining the initial information regarding a Department member involved shooting, a supervisor shall immediately notify the involved employee's Lieutenant and the Chief of Police.

307.7.1 DESTRUCTION OF ANIMALS

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

In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, [department/office] members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, conducted energy device, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any member from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed, becomes impractical, or if the animal reasonably appears to pose an imminent threat to human safety.

307.7.2 INJURED ANIMALS

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

Stray or abandoned injured animals that may be moved or taken to an available veterinarian should not be euthanized. With supervisor approval, abandoned injured animals (with the exception of dogs and cats) may only be euthanized after a reasonable search to locate the owner has

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been made. Injured dogs and cats found without their owners shall be taken to an appropriate veterinarian for determination of whether they should be treated or humanely destroyed (Penal Code § 597.1).

307.7.3 WARNING AND OTHER SHOTS

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

Warning shots shall not be used.

307.8 RANGEMASTER DUTIES

The range will be under the exclusive control of the Rangemaster. All members attending will follow the directions of the Rangemaster. The Rangemaster will maintain a roster of all members attending the range and will submit the roster to the Training Sergeant after each range date. Failure of any member to sign in and out with the Rangemaster may result in non-qualification.

The range shall remain operational and accessible to [department/office] members during hours established by the [Department/Office].

The Rangemaster has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by members of this [department/office] to verify proper operation. The Rangemaster has the authority to deem any [department/office]-issued or personally owned firearm unfit for service. The member will be responsible for all repairs to his/her personally owned firearm and it will not be returned to service until inspected by the Rangemaster.

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

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

307.9 FLYING WHILE ARMED

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to officers who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

- (a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the [Department/Office] based on the law and published TSA rules.

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- (b) Officers must carry their Banning Police Department identification card, bearing the officer's name, a full-face photograph, identification number, the officer's signature and the signature of the Chief of Police or the official seal of the [Department/Office] and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).
- (c) The Banning Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Banning Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.
- (d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail his/her itinerary, and include that the officer has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the [department/office]-appointed instructor.
- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.
- (g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.
- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (i) Officers should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.
- (j) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

307.10 CARRYING FIREARMS OUT OF STATE

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

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

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- (d) The officer will remain subject to this and all other [department/office] policies (including qualifying and training).

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

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

AR-15 Rifles

308.1 PURPOSE AND SCOPE

To establish guidelines for the carrying of the AR-15 rifle in order to more effectively and accurately address the increasing level of fire power and body armor utilized by criminal suspects. The Banning Police Department will make the AR-15 rifle available to qualified officers as an additional and more immediate tactical resource. The AR-15 caliber shall be a .223. These rifles shall not be altered in any manner, other than the addition of a department approved scope, sling, lighting and magazines.

308.2 PROCEDURE

The AR-15 rifle is a specialized type of firearm and it takes training to become proficient with this firearm. The AR-15 rifle can also be an added asset in rural settings or in situations where suspects are also armed with shoulder fired weapons (i.e. assault rifles). Before any officer will be allowed to be equipped with an AR-15 rifle they will be required to pass a department qualification course of fire.

308.3 GUIDELINES

Department AR-15 rifles will be checked out prior to each shift and checked in at the end of each shift by the Watch Commander. Extra ammunition and magazines (three for each weapon) will be carried in the unit and will be checked in and out with the weapon. Each weapon will be equipped with a shoulder sling.

The department will supply duty ammunition and magazines for the AR-15 rifle. Personal ammunition or personal magazines will not be carried unless approved by the department range staff and the Chief of Police. Magazines will be of the box fed, spring loaded type with a 10, 20, or 30 round capacity.

308.3.1 WHEN THE AR-15 CAN BE USED

Officers may deploy the AR-15 rifle in any circumstance where the officer can articulate a reasonable expectation that the weapon may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

- (a) Situations where the officer reasonably anticipates an armed encounter.
- (b) When an officer is faced with a situation which 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.

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- (f) During search warrants or other high-risk situations when approved by the supervisor in charge.
- (g) In rural searches for possible dangerous or armed suspect(s).
- (h) When authorized or requested by a supervisor.
- (i) When needed to euthanize an animal and with prior approval by the on-duty Watch Commander.

308.3.2 WHEN THE AR-15 SHOULD NOT BE USED

The Watch Commander shall have the discretion to deviate from these guidelines as not all situations in law enforcement are the same. There may be a situation that arises that is not covered under these guidelines, and it would be the Watch Commander's responsibility to decide if the AR-15 rifle is to be used. Generally, the AR-15 rifle should not be used in the following situations:

- (a) For the purpose of intimidation, such as crowd control.
- (b) Urban environment during non-violent crimes.
- (c) Unarmed / non-violent misdemeanor confrontations.
- (d) Building searches, such as residences, small businesses or locations with confined quarters.

Additionally, Watch Commanders shall have the discretion to deviate from these guidelines as not all situations in law enforcement are the same. There may be a situation that arises that is not covered under these guidelines, and it would be the Watch Commander's responsibility to decide if the AR-15 rifle is to be used.

308.4 AR-15 RIFLE MAINTENANCE

- (a) Primary responsibility for maintenance of department owned AR-15 shall be the responsibility of the Department Range Master or Armorer who shall inspect and service each AR-15 rifle each Firearms Qualification Day (every three months).
- (b) Each patrol officer carrying an AR-15 rifle may be required to field strip and clean the weapon as needed.
- (c) Each patrol officer shall be responsible for promptly reporting any damage or malfunction of an assigned weapon.
- (d) Each weapon shall be subject to inspection by a supervisor, the Department Range Master or Armorer at any time.
- (e) No modification shall be made to any AR-15 rifle without prior written authorization from the Department Range Master or Armorer.
- (f) Any patrol rifle found to be unservicable 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.

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308.5 TRAINING

Before an officer can be authorized to carry an AR-15 rifle, they will be required to show a working knowledge of the weapon both in the areas of safety and proficiency and pass the following department course of fire:

- (a) Shooters Choice (kneeling or standing) 10 rounds at 10 yards in 10 seconds.
- (b) Shooters Choice (kneeling or standing) 10 rounds at 20 yards in 15 seconds.
- (c) Shooters Choice (kneeling or standing) 10 rounds at 30 yards in 20 seconds

Total of 30 rounds will be expended. This course of fire will be fired on the department standard qualification target, with a pass/fail score given by the range staff. This course of fire shall be fired and passed twice a year.

308.6 DISCHARGE OF THE AR-15 RIFLE

The discharge of the AR-15 rifle shall be governed by the Department's Deadly Force Policy, § 300.

308.7 PATROL READY

Any qualified officer carrying an AR-15 in the field shall maintain the weapon in the "patrol ready" condition until deployed when needed. After deployment the AR-15 shall be checked and placed back into the "patrol ready" condition before it is secured back into the vehicle. A rifle is considered "patrol ready" when it has been inspected by the assigned officer and meets the following conditions:

- (a) There is no round in the chamber.
- (b) The rifle bolt is forward with the hammer down.
- (c) The rifle safety is on.
- (d) There is a fully loaded magazine in the rifle with no more than 28 rounds.
- (e) The dust cover is closed.
- (f) The rifle is stored in the locked patrol vehicle's rifle rack or trunk.

The AR-15 may be carried in unmarked units, secured in the trunk portion of the vehicle. The rifle is not to remain in the trunk of an unmarked unit over night. Officers who are assigned take home vehicles shall not leave the weapon in their vehicles over night.

308.8 PURCHASE OF THE AR-15 BY INDIVIDUAL OFFICERS

AR-15 rifles registered to the Banning Police Department, but purchased by individual officers, will become the property of that officer when he or she is separated from the Banning Police Department. This will include retirement, lateral transfers or termination for any reason. Federal Law provides an exception for assault weapons that are registered to a Law Enforcement Agency and are transferred by the agency to an officer upon the officer's retirement from or termination of

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his or her employment with the agency. (18 USC 922 Unlawful Acts Section (v)(1)(4) Paragraph (1)(A) (C)).

Vehicle Pursuits

309.1 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).

309.1.1 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.

Boxing-in - A low-speed tactic designed to stop a fleeing vehicle by surrounding it with emergency vehicles and then slowing all vehicles to a stop.

Pursuit Intervention - An attempt to stop the suspect's ability to continue to flee in a vehicle through tactical application of technology, tire deflation devices, blocking or vehicle intercept, boxing-in, the PIT (known as Pursuit Intervention Technique or Precision Immobilization Technique), ramming, or roadblock procedures.

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.

Roadblock - A tactic designed to stop a fleeing vehicle by intentionally placing an emergency vehicle or other immovable object in the path of the fleeing vehicle.

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.

Terminate - To discontinue a pursuit or stop chasing fleeing vehicles.

Trail - Following the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing vehicle will maintain sufficient distance from the pursuit vehicles so as to clearly indicate an absence of participation in the pursuit.

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.

309.1.2 FAILURE TO YIELD

Refers to the actions of a vehicle operator who fails to stop or respond to the emergency light(s) and siren of a law enforcement vehicle. Generally, the vehicle operator continues to travel forward

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at or below the speed limit, observes applicable rules of the road and does not change the direction of travel in an evasive manner.

309.2 POLICY

It is the policy of this [department/office] to balance the need to apprehend a fleeing suspect with the risks associated with vehicle pursuits.

309.2.1 VEHICLE PURSUIT POLICY OBJECTIVES

The following is the Department policy for pursuits involving vehicles and other specialized craft. The objectives are:

- (a) To prevent injury or death to Officers, innocent citizens and suspected violators from pursuits, and;
- (b) To apprehend a suspected violator and to minimize the threat to public safety as a result of the pursuit, and;
- (c) To reduce the likelihood of force being used against a suspected law violator due to a communication breakdown.

309.3 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 and officers 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.
- (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).

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- (g) Whether the pursuing unit is carrying passengers other than on-duty police officers. Pursuits should not be undertaken with an arrestee in the pursuit vehicle unless exigent circumstances exist.
- (h) Emergency lighting and siren limitations on unmarked police department vehicles that may reduce visibility of the vehicle, such as visor or dash-mounted lights, concealable or temporary emergency lighting equipment, and concealed or obstructed siren positioning.
- (i) The availability of other resources such as air support or vehicle locator/deactivation technology.

309.3.1 RESERVE OFFICERS IN PURSUITS

Level III Reserve Police Officers shall not operate a Department vehicle in emergency response or pursuit modes. Level I and Level II Reserve Officers may operate a Department vehicle in emergency response or pursuit modes as follows:

- (a) Level I Reserve Police Officer in compliance with existing policy manual for a full-time police officer.
- (b) Level II Reserve Police Officer only accompanied by a full-time police officer in compliance with the existing policy manual.

309.4 PURSUIT UNITS

Vehicle pursuits should be limited to three police[department/office] 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.

309.4.1 EMERGENCY EQUIPMENT

Vehicle pursuits shall only be conducted using authorized police[department/office] 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.

309.4.2 MOTORCYCLES AND UNMARKED UNITS

When involved in a pursuit, police[department/office] motorcycles and unmarked vehicles should be replaced by marked four-wheel emergency vehicles as soon as practicable.

309.4.3 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

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vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspect without unreasonable danger to themselves 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.
- (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.

309.4.4 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.

309.5 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 contact 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

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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.

309.5.1 OPTION "BREAK AWAY" PROCEDURE

The purpose of this procedure is to provide a pre-planned alternative to continued pursuits, where aircraft are in position to continue to observe the suspect. The procedure can be invoked at the discretion of the pursuing ground units or by the supervisor controlling the pursuit. The gravity of the known violations, Departmental policy and other risk factors should be weighed prior to invoking this procedure.

309.5.2 AIRCRAFT "BREAK AWAY" PROCEDURES

- (a) Initial assessment. Once overhead, direct reliable communication between the aircraft and pursuing units shall be established. The aircraft crew shall evaluate their ability to continue surveillance based on fuel-on-board, weather, direction and speed involved, and other appropriate factors.
- (b) Radio notification. When appropriate conditions as outlined in paragraph "1" above (Purpose Statement) exist, the aircraft crew will notify ground units they are in position to invoke "Break Away" option. This notification will be accomplished utilizing the radio notification "Break Away option available." If "Break Away" procedures are not invoked by the ground units, the aircraft will continue to provide only those services requested.

309.5.3 GROUND UNIT "BREAK AWAY" PROCEDURES

Decision to invoke "Break Away." Ground units receiving the notification "Break Away option available" shall have the discretion to:

- (a) Based on the circumstances, advise the aircraft that "Break Away" procedures will not be utilized, or;
- (b) Initiate "Break Away" procedure Initiating "Break Away" procedures. Pursuing ground units will initiate the procedure with the order, "All units break away." All pursuing ground units will discontinue ground pursuit and will terminate Code 3 operations. The aircraft will continue surveillance of the suspect vehicle, advising appropriate agencies of the continued movement of the suspect vehicle. However, they should avoid any actions that could alert the suspect to the aircraft's continuing surveillance.

Pursuit/surveillance termination. Wherever possible, the aircraft will notify available ground units in the vicinity when the suspect(s) abandon the vehicle. The aircraft will advise arriving units of the circumstances involved and request assistance in apprehending the suspect(s). The originating unit may continue in the direction of the surveillance, or return to its jurisdiction, at the discretion of the supervisor. Once the surveillance is terminated, the originating agency should be advised of the results and allowed the opportunity to respond to the termination point and assume control of any apprehended suspect(s).

309.6 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.

309.6.1 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.

309.6.2 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 police[department/office] 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.

309.7 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/office].
- (j) Continuing the management and control of Banning Police Department units when a pursuit enters another jurisdiction.
- (k) Preparing documentation of the pursuit and conducting a post-pursuit review, as required.

309.7.1 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.

309.8 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/office] 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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309.8.1 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.

309.9 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.

309.9.1 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 Banning 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/office] reports.

309.9.2 PURSUITS EXTENDING INTO THIS JURISDICTION

Officers from this [department/office] 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/office] to assist or take over a pursuit that has entered the jurisdiction of the Banning 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/office] should terminate at the City limits, provided that the pursuing agency has sufficient assistance from other sources. Ongoing participation from this [department/office] 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.

309.10 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.

309.10.1 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.

309.10.2 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.

309.10.3 BOXING-IN OR BLOCKING

Boxing-in or blocking should only be used when the suspect's vehicle is stopped or traveling at a low speed.

Boxing-in requires the participation of multiple units and therefore must be carefully coordinated with all involved.

309.10.4 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.

309.10.5 FIREARMS

Specific guidance on the use of a firearm during a vehicle pursuit is addressed in the Use of Force Policy.

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309.11 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.
- (e) Hazards to uninvolved bystanders and motorists.
- (f) The identity of the suspect is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit.
- (g) Extended pursuits of violators for misdemeanors not involving violence, risk of serious harm, or weapons (independent of the pursuit) are generally discouraged.

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].

309.11.1 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.

309.11.2 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.

Any use of force necessary to apprehend the suspect shall be consistent with the Use of Force Policy.

309.12 CONCLUSION OF PURSUIT

- (a) The primary unit is responsible for the investigation at the conclusion of the pursuit.

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- (b) The secondary unit shall be responsible for assisting the primary unit and broadcasting pertinent information at the termination of the pursuit.
- (c) Officers are to use appropriate "high risk stop" procedures on removing suspects from a vehicle at the conclusion of the pursuit.

309.13 DEBRIEFING

Participating officers should return to the [Department/Office] as soon as practical following a pursuit to debrief with a supervisor.

309.14 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 use of force that occurred during the vehicle pursuit shall be documented in the appropriate report (See the Use of Force Policy).
 - 9. Any injuries and/or medical treatment.
 - 10. Any property or equipment damage.
 - 11. 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/office] 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.

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309.14.1 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.

309.15 PURSUIT TRAINING

The Training Sergeant should ensure that members of this [department/office] 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.

309.15.1 STATE-SPECIFIC TRAINING REQUIREMENTS

The Training Sergeant 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.

309.16 POLICY ACKNOWLEDGEMENT

Officers of this [department/office] 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.

309.17 APPLICATION OF VEHICLE PURSUIT POLICY

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

Officer Response to Calls

311.1 PURPOSE AND SCOPE

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

311.2 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.

311.3 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

311.3.1 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).

311.4 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 Commander or field supervisor will make a determination as to whether one or more officers driving Code-3 is appropriate.

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311.5 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.

311.6 COMMUNICATIONS RESPONSIBILITIES

A dispatcher shall assign a Code-3 response when an officer requests emergency assistance or available information reasonably indicates that the public is threatened with serious injury or death and immediate police response is needed. In all other circumstances, the dispatcher shall obtain authorization from the Watch Commander or a field supervisor prior to assigning units Code-3 . The dispatcher shall:

- (a) Attempt to assign the closest available unit to the location requiring assistance
- (b) Immediately notify the Watch Commander
- (c) Confirm the location from which the unit is responding
- (d) Notify and coordinate allied emergency services (e.g., fire and ambulance)
- (e) Continue to obtain and broadcast information as necessary concerning the response and monitor the situation until it is stabilized or terminated
- (f) Control all radio communications during the emergency and coordinate assistance under the direction of the Watch Commander or field supervisor

311.7 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

311.8 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.

Off Duty Arrests

312.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to police officers regarding acceptable criteria for affecting an off-duty arrest.

312.2 POLICY

Off-duty officers are often faced with situations involving criminal conduct that they are neither equipped nor prepared to handle in the same manner as if they were on duty. This may lead to unnecessary injuries to off-duty officers, and confusion for those on-duty officers arriving at the scene trying to correctly assess the facts. In order to promote safety and the most efficient operations, it is the policy of this Department to determine and regulate those situations and locations within which a sworn member is permitted to make an arrest while off-duty.

312.3 RESPONSIBILITY

Under California law, both on-duty and off-duty officers have peace officer authority as to any public offense committed or where there is immediate danger to person or property, or the escape of the perpetrator of such offense. However, on-duty officers outside the City limits who are not acting within the scope of employment as a Banning Police Officer on matters of direct concern to the City and off-duty officers both inside and outside the City limits are to give first consideration to causing the appropriate action to be effected by the responsible law enforcement agency.

312.4 PERSONALLY INVOLVED

Where the off-duty officer, a family member, or a friend becomes engaged in a dispute or incident with the person to be arrested or any other person connected with the incident. This does not apply to situations where the police officer is a victim of a crime.

312.5 LIABILITY PROTECTION

Although police officers of this department have liability protection while acting in the course and scope of their employment as peace officers for the City of Banning, such protection does not extend to criminal activity or willful acts that cause injury or damage to person or property. While state law grants peace officer authority anywhere in the state, it does not include liability protection. In order for an officer to be protected for his or her actions, as a peace officer, compliance with sections 317.6, 317.61, and 317.7 is necessary.

312.6 PERMITTED OFF DUTY-ARRESTS

When off-duty and within the legal jurisdiction of this Department, a police officer may make an arrest only when:

- (a) The arresting officer is not personally involved in the incident underlying the arrest; and
- (b) There is an immediate need for the prevention of a crime or apprehension of a suspect; and
- (c) The officer should consider the tactical situation; and

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- (d) The crime would be charged as a jailable offenses requiring a full custodial arrest; and
- (e) The arresting officer is in possession of appropriate police identification.

312.6.1 OFF-DUTY RESPONSIBILITIES

While off-duty, it is the responsibility of the police officer to immediately report any suspected or observed criminal activities to on-duty authorities.

Except as allowed by this policy, off-duty officers should not enforce summary offenses or minor violations such as harassment, disorderly conduct or other quality-of-life offenses. On-duty personnel shall be contacted to respond to the situation where an off-duty officer becomes aware of such violations.

Where an arrest is necessary, the off-duty officer shall consider the tactical situation prior to taking any action, and then the officer shall abide by all departmental policies and procedures.

This section does not negate any responsibilities delineated in section 317.3.

312.7 PROHIBITED OFF-DUTY ARRESTS

Police officers of this Department may not make an arrest off-duty:

- (a) When the arresting officer is personally involved in the incident underlying arrest; or
- (b) When engaged in off-duty employment of a non-police nature and the actions are only in furtherance of the interest of the private employer.
- (c) When the arrest is made solely as enforcement of a minor traffic regulation. Despite the fact that a police officer has police powers and responsibilities 24 hours a day throughout the jurisdiction the off-duty officer should not enforce minor traffic regulations.

Nothing in this section affects the officer's right to make a citizen's arrest pursuant to Penal Code §§ 834 and 837.

Canine Policy

313.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the Banning Police Department with an internal set of guidelines for the use of police canines. This policy is not intended to provide the standard of care for any civil or other external proceeding and the determination of compliance with this policy is expressly reserved to internal proceedings within the Banning Police Department.

The policy of the Banning Police Department is to promote an atmosphere of service and safety in our community by providing general and specialized law enforcement activity through the efficient use of police canines.

313.2 OBJECTIVES

The objectives of the police canine team are:

- (a) Reduce the manpower and time spent in thoroughly searching buildings or areas of concern.
- (b) Searching for missing persons.
- (c) Reduce injuries to police officers and citizens resulting from criminal attacks.
- (d) Increase the number of suspects apprehended while committing criminal acts.
- (e) The detection of certain narcotics and dangerous drugs.

313.3 PREPARATIONS FOR UTILIZING A POLICE SERVICE DOG

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

- (a) The individual's age or estimate thereof;
- (b) The nature of the suspected offense;
- (c) Any potential danger to the public and/or other officers at the scene if the service dog 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 the officers or the public caused by the suspect if the police dog is not utilized.

313.4 USE OF POLICE CANINE

The decision to use a police canine in accordance with this policy shall be deemed an act of discretion and shall be reviewed in light of information reasonably available to the officer(s) at the

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time the decision is made. The ultimate disposition of any related criminal proceeding shall have no bearing on determining the reasonableness of any such decision.

313.4.1 GUIDELINES AND CAPABILITIES

A police canine may be used to apprehend an individual if:

- (a) The canine handler reasonably believes that the individual has either committed or has threatened to commit any serious offense and if any of the following conditions exist:
 - 1. There is a reasonable belief that the individual poses an immediate threat of violence or serious harm to the public or any officer.
 - 2. The individual is physically resisting or is threatening to resist arrest and the use of a police canine appears necessary to overcome such resistance.
 - 3. The individual is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.
- (b) It is recognized that situations may arise which do not fall within the provisions set forth in this policy. In any such case, a standard of reasonableness shall be used to review the decision to use a police canine in view of the totality of the circumstances. Note: Absent reasonable belief that an individual has committed or threatened to commit a serious offense, mere flight from pursuing officer(s) shall not serve as good cause for the use of a canine to apprehend an individual.
- (c) The police canine has been trained and may be used to defend itself from any annoying, harassing, or provoking acts or assisting the handler in any of the following:
 - 1. In the apprehension or holding of a suspect where the handler has a reasonable suspicion of the suspect's involvement in criminal activity.
 - 2. In the investigation of a crime or possible crime.
 - 3. In the execution of a warrant.
 - 4. In alarm situations: - burglary or robbery.
 - 5. In evidence searches.
 - 6. In searching for narcotics or drugs.
 - 7. To locate lost persons or articles.
 - 8. In security checks.
 - 9. In warrant service situations.
 - 10. To back up police officers.
 - 11. To overtake or capture barricaded suspects.
 - 12. To track lost persons and suspects.

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13. To protect or defend police officers or citizens from acts of violence.
14. To conduct structure and area searches.
15. At major disaster scenes (plane crashes, earthquakes, fires, etc. locate victims or maintain security of the disaster scene.

313.4.2 GENERAL HANDLING

Final determination as to the use of the police canine will be the responsibility of the canine handler. The handler shall apprise the on-duty Watch Commander/Supervisor as to the implementation of the canine and any other special considerations to be taken into account. However, an on-duty Watch Commander/Supervisor sufficiently apprised of the situation may decide not to deploy the dog.

In using the police canine in apprehending a fleeing suspect, or in using the canine as an actual means of force, the handler must give proper consideration to the limits on using force as stated in this General Order and the Department's Use of Force Guidelines, and the Penal Code. A loud clear warning will be given prior to releasing the dog on a fleeing or hidden suspect. In the case of a concealed suspect, the handler should give a reasonable amount of time for the suspect to surrender unless it is tactically unsafe for the officer or may infringe on the public safety.

Exception: A loud clear warning will not be necessary, if the search is for a suspect who may be armed or considered dangerous, where a warning would jeopardize officer safety.

- (a) Handlers should make every reasonable effort to ensure that the search area is clear of uninvolved citizens and that an adequate- perimeter is established to keep citizens out and the suspect within.
- (b) The decision to search on or off leash will be left to the handler.
- (c) Police canines should be kept. on leash' in areas open to the public, unless being actually used for specific and authorized police purposes as specified in this General Order.
- (d) When police canines are left unattended in a police vehicle, the vehicle will be locked and the windows rolled up unless equipped with screens. Handlers shall provide proper ventilation for the canine at all times.
- (e) Police canines shall not be used for crowd control without the approval of a supervisor. During riot situations the canine may be used. The rioters will be .warned of the intended application of the canine. Canines should be worked on a leash in these situations.
- (f) Police canines should not be handled by anyone other than canine trained and certified Department employees, and authorized veterinarian(s).
- (g) Handlers will ensure that their canines are maintained at a proficiency level as required by the Department canine trainer and the Banning Police Department.

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- (h) Handlers shall prepare and file all appropriate reports, daily logs, diagrams and daily activity reports prior to the end of their current shift.
- (i) At no time, either on-duty or off-duty, shall the handler utilize the canine for the purpose of threatening or intimidating any person without just cause and actual police necessity.
- (j) Unless the suspect is known to be armed, canines shall not be used to search (excluding tracking) for persons in hiding, when the person is known to be under the age of 16 years, or to stop the flight of a person known to be under 16 years of age.

Exception: The canine may be used in defense of an officer or persons who may be in immediate danger.

313.4.3 NON-HANDLER PERSONNEL

Police canines are trained to perform specific duties. All non-handler personnel are cautioned with regard to petting or attempting to become friendly with the canines. No attempt to pet the canine shall be made unless the handler is present and has given approval for the action. The canines are trained to protect their handlers and their Department vehicle. Department personnel shall not attempt to pet the canine when it is alone in the police vehicle or unattended.

- (a) Attempts to entice the canine to disobey its handler are forbidden. No calling, whistling or command simulations should be made by non-handlers.
- (b) No one except the handler should feed the canine.
- (c) Whenever a canine team can be used to search an area or building, Department personnel are to establish a perimeter and refrain from entering same until the operation is completed.
- (d) Unless otherwise directed by a supervisor, assisting personnel should take direction from the handler in order to minimize interference with the canine.

313.4.4 PUBLIC RELATIONS AND DEMONSTRATIONS

- (a) All requests for public relations activities shall be made to the Chief of Police in writing. The memo shall include the date, location, organization involved, number and approximate age of the group and a short synopsis of how the canine will be used.
- (b) Department coverage and manpower needs will take priority over any request.
- (c) All statistics on the police canine's performance will be approved by the Division Commander.
- (d) "Apprehension work" will not be shown or photographed unless specifically authorized by the Chief of Police.

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- (e) All canine personnel assigned to public relations duties shall prepare themselves, their canine and their equipment in such a manner as to present a professional image to the public.
- (f) Handlers will take into consideration the capabilities and limitations of their individual dogs when conducting public relations demonstrations. The canine's safety and that of the public take precedence over other factors.

313.4.5 BITE/INJURY REPORT

- (a) Any bite victim will be evaluated by an emergency care facility as to the need for further medical attention. A copy of the medical report will accompany the handler's report.
- (b) The handler shall notify the on-duty Watch Commander/Supervisor or the on-call supervisor of any bite incident.
- (c) All bites require that the handler complete a detailed report as to the events leading up to the bite, the bite occurrence itself and disposition of the person bit. In addition~ all people who observed the bite will be included as witnesses in the report. Others who heard the commands of the handler or saw actions leading up to the bite should also be included in the report. Photographs showing the location of the bites, number of bites and types of bites will also be submitted with the report.
- (d) If an accidental or unintentional bite occurs, the above procedure shall be complied with.
- (e) Photographs of the bites should be taken by the handler or supervisor.
- (f) If a bite occurs while the canine and handler are off-duty, the handler shall immediately notify an on-duty supervisor or the on-call supervisor. The supervisor shall submit an evaluation of the incident through the chain-of- command to the Chief of Police. The handler shall also submit a written report to the Division Lieutenant within twenty-four hours.
- (g) No officer shall make any statement of liability acceptance for injuries inflicted by a Department canine. The injured person shall be advised that he/she may submit a written claim to the City Clerk during normal business hours.

313.4.6 REQUESTS FOR ASSISTANCE

- (a) Departmental:
 - 1. Canine units shall act in support of patrol units on all calls which indicate that the canine's presence will be of assistance as provided in this General Order.
 - 2. A report shall be filed following each incident. The original shall be submitted to the on-duty supervisor for approval and then submitted to the Records Unit. A copy shall be forwarded to the Chief of Police via the Division Commander by the handler completing the report.

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(b) Outside Agencies:

1. All requests for canine assistance shall be cleared through the on-duty supervisor or the on-call supervisor.
2. Handlers will work their canines under Banning Police Department procedures and not the procedures of the requesting agency.

313.4.7 CARE AND MEDICAL TREATMENT

- (a) It is the responsibility of the canine handler to keep his canine in such physical condition that the canine is able to perform the duties expected of it.
- (b) Any indication that the canine is not in good condition shall be reported to the Chief of Police via the Division Lieutenant.
- (c) All veterinary attention, not of an emergency nature, shall be coordinated by the canine handler.
- (d) Medical emergencies shall be fully documented. All reports of the canine's condition and treatment shall be submitted to the Chief of Police. The report is due to the Chief of Police upon the handlers return" to duty.
- (e) Any handler who abuses or neglects. his/her canine will be subject to disciplinary action and. the handler will be immediately removed from the Canine Unit.

313.4.8 INJURY TO THE HANDLER

Should the handler become injured and his canine is present, no one should approach the injured handler until:

- (a) Given clearance to do so by the handler.
- (b) The canine can be called from the handler and secured.
- (c) On-scene officers shall attempt the following procedures to secure a canine from an injured handler:
 1. Attempt to call the canine to a secure location.
 2. Contact another handler to secure the canine.

In the event that immediate medical attention is required for the handler and the canine will not permit this to take place, a supervisor may take appropriate action to eliminate the hazard presented by the canine.

313.5 TRAINING

Before assignment in the field, each police service dog shall be trained and certified to meet current POST guidelines. Cross-trained dog teams or those dog teams trained exclusively for the detection of narcotics and/or explosives shall be trained and certified to meet the standards established

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for such detection dogs by the California Narcotic Canine Association or other recognized and approved certification standards.

313.5.1 CONTINUED TRAINING

Each police service dog team shall thereafter be re-certified to P.O.S.T. police service dog guidelines and the California Narcotic Canine Association or other recognized and approved certification standards on an annual basis. Additional training considerations are as follows:

- (a) Police service dog teams shall receive training as defined in current contract with the department's police service dog training provider:
 - 1. Police service dog handlers are encouraged to engage in additional training with approval of the unit coordinator;
 - 2. In order to ensure that all training is consistent, no handler, trainer, or outside vendor is authorized to train to a standard that is contrary to the policies of the Banning Police Department;
 - 3. All police service dog training shall be conducted while on-duty unless otherwise approved by the unit coordinator or watch commander.

313.6 RECORD KEEPING

- (a) Each canine will have a complete personnel file maintained, documenting all training, medical care, and activities the canine is involved in.
- (b) Training: The on-going certification training of the canine will be documented (e.g.; filed searches; structure- searches; etc.): The regularly scheduled field training; detailing the times involved and areas covered will also be documented;
- (c) Veterinary Care: All medical care received by the canine will be documented by entering a copy of the treatment statement in the canine's file.
- (d) The canine will have the appropriate license(s).

313.7 HOME KENNELING

- (a) Handlers must have the approval of all adult persons residing in their residence in order to house a police canine.
- (b) Residents must be aware that the canine is not a pet but a trained working canine.
- (c) Handlers must live in a single family dwelling with a fully fenced rear yard. Handlers must agree to allow representatives of the Department on their property for the purpose of inspecting areas where the canine is kenneled.
- (d) The immediate neighbors of the intended handler shall be contacted and advised that a police canine may be housed nearby! Their opinions and desires shall be considered in any decision by the Department in handler selection.

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- (e) Canines shall be kept at the home of their handlers in kennels or quarters approved by the. Division Lieutenant.
- (f) The kennel shall be kept in a clean and sanitary condition at all times.
- (g) Canines will be securely kenneled or under the direct control of their handler while off-duty.
- (h) Handlers are not to involve themselves in any off-duty activity with their canines which may bring discredit on the program or the Department.
- (i) The handler and his family must realize that the canine placed in the care of the handler is a 24 hour responsibility.
- (j) The canine must not be allowed to roam at will.
- (k) Vacation kenneling will be arranged by the canine handler at an approved facility.
- (l) Handlers shall permit the unit coordinator to conduct spontaneous on-site inspections of affected areas of their residence as well as the service dog unit, to verify that conditions and equipment conform to this policy.
- (m) Any changes in the living status of the handler which may affect the lodging or environment of the police canine dog shall be immediately reported to the unit coordinator.

313.8 SERVICE DOG UNIT COORDINATOR RESPONSIBILITIES

The unit coordinator shall be appointed by the Chief of Police and shall supervise the police service dog program. The unit coordinator is directly responsible to the Chief of Police designee. The unit coordinator shall be responsible for, but not limited to the following:

- (a) Maintain liaison with the vendor kennel;
- (b) Maintain liaison with administrative staff and functional supervisor(s);
- (c) Maintain liaison with other agency police service dog coordinators;
- (d) Maintain accurate records to document police service dog activities;
- (e) Recommend and oversee the procurement of needed equipment and services for the unit;
- (f) Be responsible for scheduling all police service dog related activities; and
- (g) Ensure the police service dog teams are scheduled for continuous training to maximize the capabilities of the team.
- (h) The Unit Coordinator shall be responsible for scheduling periodic training for all department personnel in order to familiarize them with how to conduct themselves in the presence of department canines.

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313.9 NARCOTICS DETECTION CANINE

- (a) **Training:** Continuous training is absolutely essential to maintain proficiency in narcotics detection. Whenever possible, handlers of working detection canines should be allowed to one free hour during the work shift for training. The amount of scheduled weekly narcotic training, in addition to canine patrol training, will be recommended by the department trainer. This additional narcotics training, if deemed necessary, will be conducted on a designated training day.
- (b) **Certification:** Certification of a narcotics detection team will be administered annually by a person qualified to certify a team under suggested POST guidelines. The department trainer will be consulted on the selection of the person certifying the team.
- (c) **Call-Outs:** The narcotics detection teams are not considered an emergency response team, therefore generally will not be available for 24 hour call-out. The handlers can be called out at the discretion of the watch commander. The legality and justification for calling out the team should be carefully evaluated by the watch commander.
- (d) **Field Duties:** The narcotic teams are trained for narcotics detection only. As this is a collateral duty, the handlers have no special limitations or restrictions with patrol work and will be assigned to normal field duties.

IMMUNITY

All duly authorized peace officers in performance of their official duties and any person working under their immediate direction, supervision, or instruction are immune from prosecution under the Uniform Controlled Substance Act while providing substance abuse training or canine drug detection training (Health & Safety Code § 11367.5(b)).

313.9.1 WHEN TO USE THE TEAM

- (a) Search warrants
- (b) Consent searches
- (c) Exigent circumstances
- (d) Vehicle searches
- (e) Searches incident to an arrest
- (f) **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.
 - 1. 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

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under such conditions that will minimize the likelihood that the canine will bite or otherwise injure the individual.

2. 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.
3. 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.

313.9.2 SEARCHES

When called to a scene to conduct a search, the handler will contact the officer in charge immediately. The handler will:

- (a) Evaluate the type and legality of the requested search and advise the officer in charge.
- (b) Evaluate the search for potential hazards, i.e., sharp objects, caustic materials or other animals.
- (c) Brief other officers at the scene as to their requirements and conduct during the search.

313.9.3 NARCOTICS CAPABILITIES

The narcotics trained canine will have the capability of searching for:

- (a) Marijuana
- (b) Hashish
- (c) Cocaine
- (d) Heroin
- (e) Methamphetamine

313.9.4 HANDLER SEIZURE TRAINING DOCUMENTATION

The canine handler will have the responsibility for documenting all narcotics training, searches and seizures. The handlers will maintain copies of all records. The canine supervisor will be responsible for maintaining archives for original records.

- (a) Narcotic Training Log: used to document all narcotics training. The logs will be turned over to the canine supervisor at the end of the calendar year.
- (b) Narcotic Search Report: used to document all narcotics searches (negative or positive). Contains seizure documentation. This report will be given to the canine supervisor when completed. Asset seizures will be evaluated and submitted through the department's designated representative for asset forfeiture processing.
- (c) Currency Report: used to document positive or negative narcotic finds on currency in conjunction with the Search Report. The report will be given to the canine supervisor at the end of the calendar year.

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313.9.5 ASSIGNMENT

The Canine Narcotics Team(s) are assigned to the Canine Unit of the Field Operations Division.

313.9.6 HANDLER RESPONSIBILITIES

Expeditiously respond to field requests for searches.

- (a) Maintain narcotics certification through continuous training.
- (b) Maintain records of training, searches and seizures.
- (c) Maintain training aids in accordance with this policy.
- (d) Notify the canine supervisor and department trainer of any performance problems which occur during field contacts or training.
- (e) Notify the canine supervisor when leaving town or during any absence when security and control of the handlers training aids may be in question

313.9.7 SUPERVISOR RESPONSIBILITIES

- (a) Manage all phases of the narcotics detection program, monitor training and ensure compliance with narcotics detection operations policies.
- (b) Responsible for and will submit the following reports to the Field Operations Lieutenant via the Chain of Command.
 - 1. Quarterly search and seizure reports.
 - 2. Quarterly narcotics aids inspection reports.
 - 3. Conduct a quarterly inspection of narcotic training aids.
 - 4. Facilitate the acquisition of training aids or necessary equipment.
 - 5. Review search reports and training logs.
 - 6. Maintain records of training aid documentation and all reports and training documentation submitted by the handlers.

313.9.8 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

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- (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

313.9.9 PROCEDURE

Training narcotics will be obtained from the police evidence narcotics vault. Responsibility for the release of narcotics rests with the evidence technician.

- (a) Acquisition of narcotics to be used as training aids shall be weighed and logged in by the evidence technician or his designee. Narcotics being taken from storage as training aids must be weighed and logged in the presence of the handler requesting the narcotics.
- (b) All training aids in the possession of the canine handlers will be inspected monthly by the canine unit supervisor and a report submitted to the Field Operations Lieutenant.
- (c) Officers designated as narcotics detection handlers will be issued training aids for specific periods of time and in sufficient quantities to facilitate an ongoing daily training program in order to maintain their dog's level of expertise.
- (d) Each handler will maintain his/her training aids in security boxes, mounted- bolted to the vehicle body, in the trunks of their respective police units. To control access to the trunks, locks will be changed to ensure key control and the auto-release trunk switch will be disconnected. Access will be limited to the narcotic detection handler and the canine unit supervisor only.
- (e) All training aids in possession of the handlers will be inspected and weighed quarterly, or at any time at the request of the unit supervisor or supervisory personnel. A training aid issuance log and inspection reports will be completed and maintained by both the Canine Unit supervisor and evidence technician staff. Any discrepancy in issuance log and/or logged weight quantity of the training aid shall be documented and the handler involved will prepare an officer's report explaining the circumstances for the files after the approval by both the Field Operations and Special Operations Lieutenants.
- (f) Periodically, training aids will be returned to the evidence room for destruction. These products shall be weighed, witnessed and logged by the handler and evidence technician. The returned product will then be destroyed and replaced with like substance as required for ongoing train all necessary log entries and/or approval forms will be completed.

Domestic Violence

314.1 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.

314.1.1 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.

314.2 POLICY

The Banning 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/office] to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

314.3 OFFICER SAFETY

The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

314.4 INVESTIGATIONS

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

- (a) Calls of reported, threatened, imminent, or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
- (b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.
 - 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

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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 Bureau in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence. If the domestic violence involved threats of bodily harm, any firearm discovered in plain view or pursuant to consent or other lawful search must be taken into temporary custody (Penal Code § 18250).
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.
- (j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
 - 1. Whether the suspect lives on the premises with the victim.
 - 2. Claims by the suspect that the victim provoked or perpetuated the violence.
 - 3. The potential financial or child custody consequences of arrest.
 - 4. The physical or emotional state of either party.
 - 5. Use of drugs or alcohol by either party.
 - 6. Denial that the abuse occurred where evidence indicates otherwise.
 - 7. A request by the victim not to arrest the suspect.
 - 8. Location of the incident (public/private).
 - 9. Speculation that the complainant may not follow through with the prosecution.
 - 10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.

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11. The social status, community status, or professional position of the victim or suspect.

314.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.
- (c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

314.4.2 IF NO ARREST IS MADE

If no arrest is made, the officer should:

- (a) Advise the parties of any options, including but not limited to:
 1. Voluntary separation of the parties.
 2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).
- (b) Document the resolution in a report.

314.4.3 ARRESTING OFFICERS' 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.

314.5 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/office]'s domestic violence information handout, even if the incident may not rise to the level of a crime.

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- (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.

An officer shall advise an individual protected by a Canadian domestic violence protection order of available local victim services (Family Code § 6452).

314.6 DISPATCH ASSISTANCE

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

[Dispatcher]s 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.

314.7 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe, or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court or foreign order shall be enforced, regardless of whether the order has been properly registered with this state (Family Code § 6403).

Canadian domestic violence protection orders shall also be enforced in the same manner as if issued in this state (Family Code § 6452).

314.8 VERIFICATION OF COURT ORDERS

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and where appropriate and practicable:

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- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
 - 1. If a determination is made that a valid foreign order cannot be enforced because the subject has not been notified or served the order, the officer shall inform the subject of the order, make a reasonable effort to serve the order upon the subject, and allow the subject a reasonable opportunity to comply with the order before enforcing the order. Verbal notice of the terms of the order is sufficient notice (Family Code § 6403).
- (b) Check available records or databases that may show the status or conditions of the order.
 - 1. Registration or filing of an order in California is not required for the enforcement of a valid foreign order (Family Code § 6403).
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.

314.9 STANDARDS FOR ARRESTS

Officers investigating a domestic violence report should consider the following:

- (a) An arrest should be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is probable cause to do so requires supervisor approval.
 - 1. Officers are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the officer makes the arrest as soon as probable cause arises (Penal Code § 836).
- (b) An officer responding to a domestic violence call who cannot make an arrest will advise the victim of the victim's right to make a private person's arrest. The advisement should be made out of the presence of the suspect and shall include advising the victim how to safely execute the arrest. Officers shall not dissuade victims from making a lawful private person's arrest. Officers should refer to the provisions in the Private Persons Arrests Policy for options regarding the disposition of private person's arrests (Penal Code § 836(b)).
- (c) Officers shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)):
 - 1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)
 - 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)

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3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
 4. Penal Code § 646.9 (stalking)
 5. Other serious or violent felonies specified in Penal Code § 1270.1
- (d) In responding to domestic violence incidents, including mutual protective order violations, officers should generally be reluctant to make dual arrests. Officers shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person who has been determined to be the most significant, rather than the first, aggressor (Penal Code § 13701). In identifying the dominant aggressor, an officer shall consider:
1. The intent of the law to protect victims of domestic violence from continuing abuse.
 2. The threats creating fear of physical injury.
 3. The history of domestic violence between the persons involved.
 4. Whether either person acted in self-defense.
- (e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 13701; Penal Code § 836), regardless of whether the offense was committed in the officer's presence. After arrest, the officer shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).

314.10 REPORTS AND RECORDS

- (a) A written domestic violence incident 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, including notations for any court order served that are subject to the report requirements (Penal Code § 13730; Code of Civil Procedure § 527.12).
- (b) Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.
- (c) Officers who seize any firearm, ammunition, or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt that includes the name and residential mailing address of the owner or person who possessed the weapon and notice of where the weapon may be recovered, along with the applicable time limit for recovery (Penal Code § 18250; Penal Code § 18255; Penal Code § 33800; Family Code § 6389(c)).

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314.11 RECORD-KEEPING AND DATA COLLECTION

The Records Bureau shall maintain records of court orders related to domestic violence and the service status of each order (Penal Code § 13710).

Additionally, records shall be maintained on the number of domestic violence related calls reported to the [Department/Office], including whether weapons were used in the incident or whether the incident involved strangulation or suffocation. This information is to be reported monthly to the California Department of Justice (DOJ). The Records Supervisor has the responsibility to ensure that records are maintained and the required information is reported to the DOJ (Penal Code § 13730).

314.12 SERVICE OF COURT ORDERS

- (a) An officer who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located and shall provide the person protected or the person's parent/guardian with a copy of the order. The officer shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).
- (b) A temporary restraining order, emergency protective order, or an order issued after a hearing shall, at the request of the petitioner, be served on the restrained person by an officer who is present at the scene of a reported domestic violence incident or when the officer receives a request from the petitioner to provide service of the order (Family Code § 6383; Penal Code § 13710).
- (c) Any officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)).
- (d) During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).
 - 1. An officer should ensure that the Records Bureau is notified of any firearm obtained for entry into the Automated Firearms System (Family Code § 6383) (see the Records Bureau Policy for additional guidance).
- (e) If a valid Canadian order cannot be enforced because the person subject to the order has not been notified or served with the order, the officer shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the order. The officer shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide the person with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

314.13 PUBLIC ACCESS TO POLICY

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

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314.14 DECLARATION IN SUPPORT OF BAIL INCREASE

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

314.15 DOMESTIC VIOLENCE DEATH REVIEW TEAM

This [department/office] should cooperate with any interagency domestic violence death review team investigation. Written and oral information relating to a domestic violence death that would otherwise be subject to release restrictions may be disclosed to the domestic violence death review team upon written request and approval of a supervisor (Penal Code § 11163.3).

Search and Seizure

315.1 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 Banning Police Department personnel to consider when dealing with search and seizure issues.

315.2 POLICY

It is the policy of the Banning Police Department to respect the fundamental privacy rights of individuals. Members of this [department/office] will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this [department/office] will comply with relevant federal and state law governing the seizure of persons and property.

The [Department/Office] 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.

315.3 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/office] 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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315.4 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/office] 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.

315.5 DOCUMENTATION

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

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

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

315.6 WARRANT SERVICE CHECKLIST

The Banning Police Department Search Warrant Checklist shall be completed by all Banning Police Department personnel, regardless of assignment, when engaged in the operational

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planning of a search warrant and/or arrest warrant and included in the case report. If, based on the department's Search Warrant Threat Assessment form, a review is not required by an outside agency S.W.A.T. Team Supervisor, this form shall be submitted to the appropriate Division Supervisor for review and approval prior to the execution of the search and/or arrest warrant(s), with the exception of department members assigned to a task force. Department personnel assigned to a task force are authorized to use the task force's Search Warrant Checklist in lieu of the Banning Police Department Search Warrant Checklist.

315.7 WARRANT SERVICE THREAT ASSESSMENT FORM

The Banning Police Department Warrant Threat Assessment Form shall be completed by all Banning Police Department personnel, regardless of assignment, when engaged in the operational planning of a search warrant and/or arrest warrant and included in the case report. The Threat Assessment Form is to be used as a means to evaluate the need for assistance from an outside agency S.W.A.T. Team. If one or more of the criteria listed in Items 1-5 are checked "Yes," the Threat Assessment Form shall be submitted to the Detective Bureau Supervisor who will coordinate a consultation with an outside agency S.W.A.T. Team Supervisor prior to the execution of the search and/or arrest warrant(s). If two or more of the criteria listed in Items 6-12 are checked "Yes," the Threat Assessment Form shall be submitted to the Detective Bureau Supervisors who will coordinate a consultation with an outside agency S.W.A.T. Team Supervisor for review prior to the execution of the search and/or arrest warrant(s).

If after completing the Threat Assessment Form it is determined that a review by an outside agency S.W.A.T. Team Supervisor is not required, the form shall still be completed and included in the case report.

Banning Police Department personnel, assigned to a task force, are exempt from completing the Banning Police Department Threat Assessment Form when engaged in the operational planning of a search warrant and/or arrest warrant outside the City of Banning.

School Resource Officers

316.1 PURPOSE AND SCOPE

The purpose of this general order is to establish a job description and outline of duties for personnel assigned as a School Resource Officer (SRO).

316.1.1 DEFINITION

A School Resource Officer is a sworn police officer, who is assigned to a primary education facility or group of facilities and is responsible for assisting school administrative staff with maintaining a safe, secure learning environment and developing and maintaining cooperative relationships between schools and police.

316.1.2 DUTIES

- (a) The primary focus of the SRO is the safety of the students, staff, and facility. The SRO is responsible for assisting school administrative staff in designing, implementing, and maintaining procedures and policies at the educational facility in order to promote campus safety.
- (b) The SRO will enforce all pertinent laws and ordinances on school campuses that the officer is assigned to. Enforcement will be consistent with services rendered to all citizens in the community. This enforcement will also include preparing written reports consistent with existing department policy.
- (c) The SRO is responsible for conducting preliminary investigations for any crimes reported to the SRO by students or staff, whether or not they occur on campus. The SRO may also write reports to document incidents occurring off campus, if the incident involves students or staff.
- (d) The SRO is responsible for completing monthly activity reports and submitting these reports to his/her immediate supervisor. These reports will contain, at the minimum, the number of reports taken, citations issued, and arrests made.
- (e) The SRO will conduct truancy enforcement by issuing citations, returning students to school, conducting home visits, and providing informal counseling.
- (f) The SRO will also provide law enforcement educational services as requested by school staff and upon approval of a supervisor. These services may include classroom instruction, special programs, or small group instruction.
- (g) The SRO is responsible for coordinating and organizing additional Banning Police Department resources for special events (i.e., additional officers for sporting events, graduation, etc.).
- (h) While performing the duties of the SRO, the officer will uphold the standards of the Code of Ethics and conform to all Department policies and procedures.

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316.1.3 OTHER RESPONSIBILITIES

- (a) The SRO should help to increase the students understanding and respect for law enforcement through positive interaction, informal counseling, and through professional appearance.
- (b) The SRO is not a school disciplinarian and will only take action when there is a violation of the law. School discipline is the responsibility of the school administrative staff.
- (c) The SRO will participate actively in school affairs as a representative for the Banning Police Department.
- (d) The SRO will present the philosophies of the Banning Police Department in a positive and professional manner.
- (e) All searches conducted on campus will only be conducted when the search is warranted and shall comply with existing policy, statutory law, and case law guidelines. Whenever possible, the SRO should avoid directing school staff to conduct any search. The SRO should not participate in administrative searches by school staff, but may stand by for safety purposes, if requested.
- (f) In the event a police report is written, Department policy relating to the preparation and submittal for review should be adhered to. If the school staff requests a copy of the report, they shall be directed to the Department's Records Department. If requested, the SRO will write a memorandum to the school's principal for purposes of documentation for additional school disciplinary procedures.
- (g) The SRO is an extension of patrol and will drive an assigned marked patrol vehicle. The SRO will be in uniform, unless directed otherwise. The SRO will contact dispatch upon going in service and arriving on campus. The SRO will advise dispatch upon leaving campus.
- (h) The SRO should take days off to coincide with school holidays and will work five eight hour shifts. The hours of work will coincide with the times school is in session.
- (i) In the event the SRO is unavailable to respond to an incident at their school, the SRO shall notify the Watch Commander and dispatch, so that the Watch Commander may assign additional resources.
- (j) Supervision of the SRO will be determined by the Administrative Lieutenant.

Temporary Custody of Juveniles

317.1 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 Banning Police Department (34 USC § 11133).

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

317.1.1 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/office] 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).

317.2 POLICY

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

317.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the Banning 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 Banning 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).

317.3.1 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/Office] members should administer first aid as applicable (15 CCR 1142).

317.3.2 SUICIDE PREVENTION OF JUVENILES IN CUSTODY

[Department/Office] members should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to communicate, verbally threatening to kill themselves, or any unusual behavior which may indicate the juvenile may harm themselves while in either secure or non-secure custody (15 CCR 1142).

317.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Banning 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 Banning 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 Banning Police Department (34 USC § 11133; Welfare and Institutions Code § 207.1).

317.4.1 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 Banning 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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317.4.2 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).

317.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Banning 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/Office].
- (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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317.5 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).

317.6 JUVENILE CUSTODY LOGS

Any time a juvenile is held in custody at the [Department/Office], 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 Banning 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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317.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the [Department/Office] (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 Banning 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).

317.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Banning 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 Banning Police Department more than four hours. This will enable the Watch Commander to ensure no juvenile is held at the Banning 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).

317.9 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 Banning 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).

317.10 PERSONAL PROPERTY

The officer taking custody of a juvenile offender or status offender at the Banning 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 Banning Police Department.

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317.11 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/office] 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).

317.11.1 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/office] 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.

317.12 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 Banning Police Department (15 CCR 1142; 15 CCR 1047). The procedures will address:

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

317.12.1 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/office] website as prescribed and within the time frames provided in Penal Code § 10008.

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317.13 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.

317.13.1 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/office] 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).

317.14 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 Bureau 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

317.15 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/office] shall not divulge any information regarding juveniles unless they are certain of the legal authority to do so.

Welfare and Institutions Code § 828 authorizes the release of certain information to other agencies. It shall be the responsibility of the Records Supervisor and the appropriate Detective Bureau supervisors to ensure that personnel of those bureaus act within legal guidelines.

317.16 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION

The Patrol Division Commander shall coordinate the procedures related to the custody of juveniles held at the Banning Police Department and ensure any required certification is maintained (Welfare and Institution Code § 210.2).

317.17 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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317.18 TRAINING

[Department/Office] members should be trained on and familiar with this policy and any supplemental procedures.

Senior and Disability Victimization

318.1 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 Banning Police Department members as required by law (Penal Code § 368.6).

The Banning 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).

318.1.1 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/Office] 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

318.2 POLICY

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

318.2.1 ARREST POLICY

It is the [department/office] policy to make arrests or to seek arrest warrants for elder and dependent adult abuse, once the investigation is complete and 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).

318.2.2 ADHERENCE TO POLICY

All officers are required to be familiar with the policy and carry out the policy at all times, except in the case of an unusual compelling circumstance as determined and approved by a supervisor (Penal Code § 368.6).

Any supervisor who determines and approves an officer's deviation from this policy shall provide a written report to the Chief of Police that states the unusual compelling circumstances regarding the deviation. A copy of this report will be made available to the alleged victim and reporting party, once the investigation is complete and upon request of the victim or reporting party, pursuant to [department/office] 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)).

318.3 INVESTIGATIONS AND REPORTING

All reported or suspected cases of elder and dependent adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated (Penal Code § 368.6).

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.

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- (c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.
- (e) Whether the victim was transported for medical treatment or a medical examination.
- (f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.
- (g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.
- (h) Previous addresses of the victim and suspect.
- (i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.
- (j) Witness and suspect statements if available.
- (k) Review of all portable audio/video recorders, devices, and other available video. If a search warrant or consent is authorized pursuant to Penal Code 1524.
- (l) Call history related to the elder or dependent adult including calls from mandated reporters or other individuals. If a search warrant or consent is authorized pursuant to Penal Code 1524.
- (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)). Once the investigation is completed per evidence code 1040 and 1042.
- (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.

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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)).

318.3.1 ADDITIONAL INVESTIGATIVE CONSIDERATIONS

The following factors as provided in Penal Code § 368.6 should be considered when investigating incidents of elder and dependent adult abuse:

- (a) Elder and dependent adult abuse, sex crimes, child abuse, domestic violence, and any other criminal act, when committed in whole or in part because of the victim's actual or perceived disability, including disability caused by advanced age, is also a hate crime (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).
- (b) Senior and disability victimization crimes are also domestic violence subject to the mandatory arrest requirements of Penal Code § 836 if they meet the elements described in Penal Code § 273.5, including but not limited to a violation by a caretaker or other person who is or was a cohabitant of the victim, regardless of whether the cohabitant is or was a relative of, or in an intimate personal relationship with, the victim (Penal Code § 368.6(c)(10)).
- (c) Many victims of sexual assault and other sex crimes delay disclosing the crimes for reasons including but not limited to shame, embarrassment, self-doubt, fear of being disbelieved, and fear of retaliation by the perpetrator or others (Penal Code § 368.6(c)(11)).
- (d) Victims and witnesses with disabilities, including cognitive and communication disabilities, can be highly credible witnesses when interviewed appropriately by trained officers or other trained persons (Penal Code § 368.6(c)(14)).

318.4 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) Investigate all cases of alleged elder and dependent adult abuse.
 - (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).

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2. Referrals to the crime victim advocate 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.

318.5 MANDATORY NOTIFICATION

Members of the Banning Police Department shall notify the local office of the California Department of Social Services (CDSS) APS agency of known, suspected, or alleged instances of abuse when they reasonably suspect, have observed, or have knowledge of an incident that reasonably appears to be abuse of an elder or dependent adult, or are told by an elder or dependent adult that the person has experienced abuse (Welfare and Institutions Code § 15630(b)).

Notification shall be made by telephone or through a confidential internet reporting tool as soon as practicable. If notification is made by telephone, a written report shall be sent or internet report shall be made through the confidential internet reporting tool within two working days, as provided in Welfare and Institutions Code § 15630(b).

Notification shall also be made to the following agencies as soon as practicable or as provided below (Welfare and Institutions Code § 15630):

- (a) If the abuse occurred in a long-term care facility (not a state mental health hospital or a state developmental center), notification shall be made as follows (Welfare and Institutions Code § 15630(b)(1)):
 1. If there is serious bodily injury, notification shall be made by telephone and, within two hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
 2. If the abuse is allegedly caused by a resident with dementia and there is no serious bodily injury, notification shall be made by a written report to the local ombudsman within 24 hours.
 3. If there is any other abuse in a long-term care facility (not a state mental health or a state developmental center), a written report shall be made to the local ombudsman and corresponding state licensing agency within 24 hours.
- (b) The California Department of Public Health (DPH) shall be notified of all known or suspected abuse in a long-term care facility.
- (c) The CDSS shall be notified of all known or suspected abuse occurring in a residential care facility for the elderly or in an adult day program.
- (d) If the abuse occurred in an adult day health care center, DPH and the California Department of Aging shall be notified.
- (e) The Division of Medi-Cal Fraud and Elder Abuse shall be notified of all abuse that constitutes criminal activity in a long-term care facility.

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- (f) The District Attorney's office shall be notified of all cases of physical abuse and financial abuse in a long-term care facility.
- (g) If the abuse occurred at a state mental hospital or a state developmental center, notification shall be made to the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services as soon as practicable but no later than two hours after law enforcement becomes aware of the abuse (Welfare and Institutions Code § 15630(b)).
 - 1. When a report of abuse is received by the [Department/Office], investigation efforts shall be coordinated with the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services (Welfare and Institutions Code § 15630(b)).
- (h) If during an investigation it is determined that the elder or dependent adult abuse is being committed by a licensed health practitioner as identified in Welfare and Institutions Code § 15640(b), the appropriate licensing agency shall be immediately notified (Welfare and Institutions Code 15640(b)).
- (i) When the [Department/Office] receives a report of abuse, neglect, or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, the licensing agency shall be notified by telephone as soon as practicable (Welfare and Institutions Code § 15640(e)).

The Detective Bureau supervisor is responsible for ensuring that proper notifications have occurred to the District Attorney's Office and any other regulatory agency that may be applicable based upon where the abuse took place (e.g., care facility, hospital) per Welfare and Institutions Code § 15630(b).

Notification is not required for a person who was merely present when a person self-administered a prescribed aid-in-dying drug or a person prepared an aid-in-dying drug so long as the person did not assist the individual in ingesting the aid-in-dying drug (Health and Safety Code § 443.14; Health and Safety Code § 443.18).

Failure to report or impeding or inhibiting a report of abuse of an elder or dependent adult is a misdemeanor (Welfare and Institutions Code §15630(h)).

318.5.1 NOTIFICATION PROCEDURE

Notification should include the following information, if known (Welfare and Institutions Code § 15630(e)):

- (a) The name of the person making the report.
- (b) The name and age of the elder or dependent adult.
- (c) The present location of the elder or dependent adult.
- (d) The names and addresses of family members or any other adult responsible for the care of the elder or dependent adult.
- (e) The nature and extent of the condition of the elder or dependent adult.
- (f) The date of incident.

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- (g) Any other information, including information that led the person to suspect elder or dependent adult abuse.

318.6 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/office] 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.

318.6.1 EMERGENCY PROTECTIVE ORDERS

In any situation which an officer reasonably believes that an elder or dependent adult is in immediate and present danger of abuse based on an allegation of a recent incident of abuse or threat of abuse (other than financial abuse alone), the officer may seek an emergency protective order against the person alleged to have committed or threatened such abuse (Family Code § 6250(d)).

318.6.2 VERIFICATION OF PROTECTIVE ORDER

Whenever an officer verifies that a relevant protective order has been issued, the officer shall make reasonable efforts to determine if the order prohibits the person from possession of firearms or requires the relinquishment of firearms, and if the order does so, the officer shall make reasonable efforts to (Penal Code § 368.6(c)(19)):

- (a) Inquire whether the restrained person possesses firearms. The officer should make this effort by asking the restrained person and the protected person.
- (b) Query the California Law Enforcement Telecommunications System to determine if any firearms are registered to the restrained person.

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- (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/office] procedures.

318.7 INTERVIEWS

318.7.1 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.

318.7.2 DETAINING VICTIMS FOR INTERVIEWS

An officer should not detain an adult involuntarily who is suspected of being a victim of abuse solely for the purpose of an interview or physical exam without his/her consent or the consent of a guardian unless one of the following applies:

- (a) Exigent circumstances exist, such as:
 - 1. A reasonable belief that medical issues of the adult need to be addressed immediately.
 - 2. A reasonable belief that the adult is or will be in danger of harm if the interview or physical exam is not immediately completed.
 - 3. The alleged offender is a family member or guardian and there is reason to believe the adult may be in continued danger.
- (b) A court order or warrant has been issued.

318.7.3 INTERVIEWS WITH A PERSON WITH DEAFNESS OR HEARING LOSS

An officer who is interviewing a victim or witness who reports or demonstrates deafness or hearing loss should secure the services of a qualified interpreter (as defined by Evidence Code § 754) prior to the start of the interview (Penal Code § 368.6) (see the Communications with Persons with Disabilities Policy for additional guidance).

318.8 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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318.9 DRUG-ENDANGERED VICTIMS

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of an elder or dependent adult abuse victim who has been exposed to the manufacturing, trafficking, or use of narcotics.

318.9.1 OFFICER RESPONSIBILITIES

Officers responding to a drug lab or other narcotics crime scene where an elder or dependent adult abuse victim is present or where there is evidence that an elder or dependent adult abuse victim lives should:

- (a) Document the environmental, medical, social, and other conditions of the adult, using photography as appropriate.
- (b) Notify the Detective Bureau supervisor so an interagency response can begin.

318.9.2 SUPERVISOR RESPONSIBILITIES

The Detective Bureau 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 Bureau 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.

318.10 TRAINING

The [Department/Office] 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.
- (e) Cultural competence (including interpretive services) related to elder and dependent adult abuse investigations.
- (f) Availability of victim advocates or other support.

318.10.1 MANDATORY TRAINING

The Training Sergeant shall ensure that appropriate personnel receive the required training, including:

- (a) Materials from POST as described in Penal Code § 368.6(c)(5)(A).

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- (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 Sergeant 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)).

318.11 RECORDS BUREAU RESPONSIBILITIES

The Records Bureau 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)).
- (b) Retaining the original elder or dependent adult abuse report with the initial case file.

318.12 JURISDICTION

The Banning 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/office] 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.

318.13 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

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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.

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.

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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.
 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.

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- (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).

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.

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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.

318.14 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/Office] and in the community, including by speaking out publicly in major cases of senior and disability victimization, to assure the community of [department/office] 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/office] 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).
 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.

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- (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/office] protocol, include either a specific title-by-title list of officer responsibilities or a specific office or unit in the [Department/Office] 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.

318.15 ELDER AND DEPENDENT ADULT ABUSE LIAISON

A [department/office] 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):

- (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.

318.16 SENIOR AND DISABILITY VICTIMIZATION CHECKLIST

The attached checklist identifies Patrol and Detective Bureau responsibilities when handling senior and/or disability victimization incidents.

SENIOR AND DISABILITY VICTIMIZATION CHECKLIST

Discriminatory Harassment

319.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent [department/office] 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.

319.2 POLICY

The Banning 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/Office] will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The [Department/Office] 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/Office] 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.

319.3 DEFINITIONS

Definitions related to this policy include:

319.3.1 DISCRIMINATION

The [Department/Office] 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/office] equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to [department/office] policy and to a work environment that is free of discrimination.

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319.3.2 SEXUAL HARASSMENT

The [Department/Office] 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.

319.3.3 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/office] rules or regulations, or any other appropriate work-related communication between supervisor and member.

319.3.4 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.

319.4 RESPONSIBILITIES

This policy applies to all [department/office] personnel. All members shall follow the intent of these guidelines in a manner that reflects [department/office] policy, professional standards, and the best interest of the [Department/Office] 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.

319.4.1 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 Director in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

319.4.2 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

- (a) Behavior of supervisors and managers should represent the values of the [Department/Office] and professional standards.
- (b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members, or issuing discipline, in a manner that is consistent with established procedures.

319.4.3 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief of Police, the Administrative Services Director, the City Manager, or the California Civil Rights Department for further information, direction, or clarification (Government Code § 12950).

319.5 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

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continuing abusive or hostile work environment. It is the policy of the [Department/Office] that all complaints of discrimination, retaliation, or harassment shall be fully documented and promptly and thoroughly investigated.

319.5.1 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.

319.5.2 FORMAL INVESTIGATION

If the complaint cannot be satisfactorily resolved through the supervisory resolution process, a formal investigation will be conducted.

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint, or for offering testimony or evidence in an investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency and dates of occurrences, and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed, or retaliated against because of their protected status, are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police, the Administrative Services Director, or the City Manager.

319.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the [Department/Office]. Members who believe that they have been harassed, discriminated against, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

319.6 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:

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- (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/office]'s established records retention schedule.

319.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.

319.7 TRAINING

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that the member has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during the member's term with the [Department/Office].

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.

319.7.1 STATE-REQUIRED TRAINING

The Training Sergeant should ensure that employees receive the required state training and education regarding sexual harassment, prevention of abusive conduct, and harassment based on gender identity, gender expression, and sexual orientation as follows (Government Code § 12950.1; 2 CCR 11024):

- (a) Supervisory employees shall receive two hours of classroom or other effective interactive training and education within six months of assuming a supervisory position.
- (b) All other employees shall receive one hour of classroom or other effective interactive training and education within six months of their employment or sooner for seasonal or temporary employees as described in Government Code § 12950.1.
- (c) All employees shall receive refresher training every two years thereafter.

If the required training is to be provided by the Civil Rights Department online training courses, the Training Sergeant should ensure that employees are provided the following website address to the training course: <https://calcivilrights.ca.gov> (Government Code § 12950; 2 CCR 11023).

319.7.2 TRAINING RECORDS

The Training Sergeant shall be responsible for maintaining records of all discriminatory harassment training provided to members. Records shall be retained in accordance with established records retention schedules and for a minimum of two years (2 CCR 11024).

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319.8 WORKING CONDITIONS

The Administration 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).

319.9 REQUIRED POSTERS

The [Department/Office] shall display the required posters regarding discrimination, harassment and transgender rights in a prominent and accessible location for members (Government Code § 12950).

Child Abuse

320.1 PURPOSE AND SCOPE

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

320.1.1 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).

320.2 POLICY

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

320.3 MANDATORY NOTIFICATION

The child protection agency shall be notified when (Penal Code § 11166):

- (a) There is a known or suspected instance of child abuse or neglect reported, which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or
- (b) A person responsible for the child's welfare fails to adequately protect the child from abuse when the person knew or reasonably should have known that the child was in danger of abuse.

The District Attorney's office shall be notified in all instances of known or suspected child abuse or neglect reported to this [department/office]. 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).

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

320.3.1 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.

320.4 QUALIFIED INVESTIGATORS

Qualified investigators should be available for child abuse investigations. These investigators should:

- (a) Conduct interviews in child appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to child abuse investigations.
- (c) Present all cases of alleged child abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 18961.7).

320.5 INVESTIGATIONS AND REPORTING

In all reported or suspected cases of child abuse, a report will be written. Officers shall write a report even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of child abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.
- (b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.

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- (c) Any relevant statements the child may have made and to whom he/she made the statements.
- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

320.5.1 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/office] 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).

320.5.2 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.

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320.6 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/office] 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.
 - 3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a child left unattended, the officer shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.
- (b) The officer reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:
 - 1. It reasonably appears to the officer that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
 - 2. There is no lawful custodian available to take custody of the child.
 - 3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
 - 4. The child is an abducted child.
- (c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 (Detainment or concealment of child from legal custodian) or Penal Code § 278.5 (Deprivation of custody of a child or right to visitation) (Penal Code § 279.6).

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

320.6.1 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.

320.6.2 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.

320.7 INTERVIEWS

320.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

320.7.2 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.

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320.7.3 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).

320.8 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.

320.9 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.

320.9.1 SUPERVISOR RESPONSIBILITIES

The Detective Bureau supervisor should:

- (a) Work with professionals from the appropriate agencies, including CPS, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the Detective Bureau 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.

320.9.2 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:

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- (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 Bureau supervisor so an interagency response can begin.

320.10 STATE MANDATES AND OTHER RELEVANT LAWS

California requires or permits the following:

320.10.1 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).

320.10.2 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.

320.10.3 CACI HEARING OFFICER

The Detective Bureau 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.

320.10.4 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

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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.

320.10.5 CHILD DEATH REVIEW TEAM

This [department/office] 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).

320.11 TRAINING

The [Department/Office] should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

- (a) Participating in multidisciplinary investigations, as appropriate.
- (b) Conducting forensic interviews.
- (c) Availability of therapy services for children and families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to child abuse investigations.
- (f) Availability of victim advocate or guardian ad litem support.

Child Protective Services and Adult Protective Services Referrals

321.1 PURPOSE AND SCOPE

The purpose of this General Order is to establish Department Procedure for the investigation of Child Protective Services (CPS) and Adult Protective Services (APS) non-emergency referrals. This General Order is in addition to Banning Police Department's Policy and Procedures § 600 (Investigation Operations), § 326 (Elder Abuse) and § 330 (Child Abuse Reporting). This General Order supercedes all previous General Orders and/or past practice in regards to the investigation of CPS/APS referrals.

321.1.1 CPS/APS NON-EMERGENCY REFERRAL DEFINITION

A Non-Emergency CPS/APS Referral is defined as a document and/or information received by the Banning Police Department from a Mandatory Reporting Agency either by mail, FAX, telephone, etc. A non-emergency CPS/APS referral will not elicit an immediate police response to danger of life. Referrals and information of this nature are often referred to as "Agency Cross Reports".

321.1.2 PROCEDURE

The Patrol Division will conduct the preliminary investigation of non-emergency CPS/APS referral as a call for service.

321.2 INVESTIGATION RESPONSIBILITY

Patrol is responsible for the preliminary investigation of all CPS/APS referrals.

Detectives are responsible for all follow-up investigations of the preliminary patrol investigation, which is also defined in § 600 of the Banning Police Department Policy and Procedure Manual.

321.3 DISTRIBUTION AND CASE TRACKING RESPONSIBILITY

The Detective Bureau Supervisor is responsible for review and case tracking of referrals received by the Banning Police Department. The Detective Bureau Supervisor is also responsible for the distribution of the referrals to the Patrol Division.

The Patrol Supervisor is responsible for assigning referrals to patrol officers and review of the preliminary investigation. The Patrol Supervisor is responsible for forwarding the preliminary CPS/APS referral investigation to the appropriate resource for completion or further investigation (example: D.B., CPS, APS, Records, Courts, etc.).

Missing Persons

322.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

322.1.1 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).

322.2 POLICY

The Banning 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 Banning 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).

322.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS

The Investigation 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/Office] 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

322.4 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).

322.5 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 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 (34 USC § 41308).
- (f) Complete the appropriate report forms accurately and completely and initiate a search as applicable according to the facts.
- (g) Collect and/or review:
 1. A photograph and a fingerprint card of the missing person, if available.
 2. A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).

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3. Any documents that may assist in the investigation, such as court orders regarding custody.
 4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).
- (h) When circumstances permit and if appropriate, attempt to determine the missing person's location through their telecommunications carrier.
- (i) Contact the appropriate agency if the report relates to a missing person report previously made to another agency and that agency is actively investigating the report. When this is not practicable, 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.

322.6 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.

322.6.1 SUPERVISOR RESPONSIBILITIES

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

- (a) Reviewing and approving missing person reports upon receipt.
 1. The reports should be promptly sent to the Records Bureau.
- (b) Ensuring resources are deployed as appropriate.
- (c) Initiating a command post as needed.
- (d) Ensuring applicable notifications and public alerts are made and documented.
- (e) Ensuring that records have been entered into the appropriate missing persons networks.
- (f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.

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

322.6.2 RECORDS BUREAU 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).
- (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.

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- (d) Forwarding a copy of the report to the Detective Bureau.
- (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).

322.7 DETECTIVE BUREAU 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 [Medical Examiner/JOP].
- (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).
- (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).

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322.8 WHEN A MISSING PERSON IS FOUND

When any person reported missing is found, the assigned investigator shall document the location of the missing person in the appropriate report, notify the relatives and/or reporting party, as appropriate, and other involved agencies and refer the case for additional investigation if warranted.

The Records Supervisor shall ensure that, upon receipt of information that a missing person has been located, the following occurs (Penal Code § 14213):

- (a) Notification is made to California DOJ.
- (b) The missing person's school is notified.
- (c) Entries are made in the applicable missing person networks.
- (d) Immediately notify the Attorney General's Office.
- (e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation within 24 hours.

322.8.1 UNIDENTIFIED PERSONS

Members investigating a case of an unidentified person who is deceased or a living person who cannot assist in identifying themselves 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.

322.9 CASE CLOSURE

The Detective Bureau 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 Banning or this [department/office] 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/office] is not the lead agency, the case can be made inactive if all investigative leads have been exhausted, the lead agency has been notified, and entries are made in the applicable missing person networks as appropriate.
- (d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

Public Alerts

323.1 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.

323.2 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.

323.3 RESPONSIBILITIES

323.3.1 MEMBER RESPONSIBILITIES

Members of the Banning Police Department should notify their supervisor, Watch Commander, or Detective Bureau 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.

323.3.2 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

323.4 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.

323.4.1 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.

323.4.2 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)

323.5 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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323.5.1 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.

323.5.2 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

323.6 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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323.6.1 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/office] 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.

323.6.2 PROCEDURE FOR SILVER ALERT

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

323.7 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).

323.7.1 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.

323.7.2 PROCEDURE

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

323.8 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/Office] (Government Code § 8594.13).

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323.8.1 CRITERIA FOR FEATHER ALERT

The [Department/Office] 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/Office] 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.

323.8.2 PROCEDURE FOR FEATHER ALERT

Requests for a Feather Alert shall be made through the California Highway Patrol (Government Code § 8594.13).

323.9 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).

323.9.1 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/Office] 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.

323.9.2 PROCEDURE FOR ENDANGERED MISSING ADVISORIES

Requests for an endangered missing advisory shall be made through the California Highway Patrol (Government Code § 8594.11).

323.10 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).

323.10.1 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/Office] 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.

323.10.2 PROCEDURE FOR EBONY ALERT

Requests for an Ebony Alert shall be made through the California Highway Patrol (Government Code § 8594.14).

323.11 LANGUAGE REQUIREMENTS FOR PUBLIC EMERGENCIES

In the event of an emergency, as defined in Government Code § 7299.7, the Banning 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.

Victim and Witness Assistance

324.1 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.

324.2 POLICY

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

324.3 CRIME VICTIM LIAISON

The Chief of Police shall appoint a member of the [Department/Office] 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 Banning 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.

324.3.1 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 Banning Police Department jurisdiction (Penal Code § 680.2).

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- (f) Providing information required by Penal Code § 679.09 of a deceased minor to a parent or guardian of the minor whose death is being investigated.
 - 1. In cases where the parent or guardian of the deceased minor cannot be located, information required by Penal Code § 679.09 shall be provided to the victim's immediate family, upon their request.
- (g) Providing notification to victims of human trafficking or abuse of their right to have a human trafficking advocate and a support person that the victim chooses present during an interview by the [Department/Office], prosecutor, or the suspect's defense attorney (Penal Code § 236.21).

324.4 CRIME VICTIMS

Officers should provide all victims with the applicable victim information handouts.

Officers should never guarantee a victim's safety from future harm but may make practical safety suggestions to victims who express fear of future harm or retaliation. Officers should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written [department/office] material or available victim resources.

324.4.1 VICTIMS OF HUMAN TRAFFICKING

Officers investigating or receiving a report involving a victim of human trafficking shall inform the victim, or the victim's parent or guardian if the victim is a minor, that upon the request of the victim the names and images of the victim and his/her immediate family members may be withheld from becoming a matter of public record until the conclusion of the investigation or prosecution (Penal Code § 293).

324.5 VICTIM INFORMATION

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

- (a) Shelters and other community resources for victims of domestic violence.
- (b) Community resources for victims of sexual assault.
- (c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109; Penal Code § 13823.95(a)).
- (d) An explanation that victims of sexual assault who seek a standardized medical evidentiary examination shall not be required to participate or agree to participate in the criminal justice system, either prior to the examination or at any other time (Penal Code § 13823.95(b)).
- (e) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.
- (f) A clear explanation of relevant court orders and how they can be obtained.

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- (g) Information regarding available compensation for qualifying victims of crime (Government Code § 13962).
- (h) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.
- (i) Notice regarding U visa and T visa application processes.
- (j) Resources available for victims of identity theft.
- (k) A place for the officer's name, badge number, and any applicable case or incident number.
- (l) The "Victims of Domestic Violence" card containing the names, phone numbers, or local county hotlines of local shelters for battered women and rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2).
- (m) The rights of sexual assault victims card with the required information as provided in Penal Code § 680.2.
- (n) Any additional information required by state law (Penal Code § 13701; Penal Code § 679.02; Penal Code § 679.04; Penal Code § 679.05; Penal Code § 679.026).

324.6 WITNESSES

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

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

Hate Crimes

325.1 POLICY

It is the policy of this [department/office] 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/office] 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/office] 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.

325.2 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 Banning 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).

325.2.1 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.

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Disability - Disability includes mental disability and physical disability as defined in Government Code § 12926, regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness.

Disability bias - In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as but not limited to dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore "deserving victims," a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes but is not limited to situations where a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons, such as inebriated persons or persons with perceived disabilities different from those of the victim. Such circumstances could be evidence that the perpetrator's motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

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

Gender expression -Gender expression means a person's gender-related appearance and behavior, 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:

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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
- 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.

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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
- Meeting hall
- Person
- Place of worship
- Private institution
- Public agency
- Library
- Other victim or intended victim of the offense

325.3 PLANNING AND PREVENTION

In order to facilitate the guidelines contained within this policy, [department/office] 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/Office] 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.

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325.3.1 HATE CRIMES COORDINATOR

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

- (a) Meeting with residents in target communities to allay fears; emphasizing the [department/office]'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 Sergeant 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 Bureau for mandated reporting to the California Department of Justice.
 - 1. Ensure the California Department of Justice crime data is posted monthly on the [department/office] website (Penal Code § 13023).
- (l) Reporting any suspected multi-mission extremist crimes to the [department/office] Terrorism Liaison Officer, the assigned designee, or other appropriate resource; and verifying that such data is transmitted to the Joint Regional Information Exchange System in accordance with the protocols of the Records Bureau Policy.

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- (m) Maintaining the [department/office]'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).
- (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/office]'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.

325.3.2 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/office] 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/Office] 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.

325.4 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

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325.4.1 INITIAL RESPONSE

First responding officers should know the role of all [department/office] personnel as they relate to the [department/office]'s investigation of hate crimes and/or incidents. Responding officers should evaluate the need for additional assistance and, working with supervision and/or investigations, access needed assistance if applicable.

At the scene of a suspected hate or bias crime, officers should take preliminary actions reasonably deemed necessary, including but not limited to the following:

- (a) Use agency checklist (per Penal Code § 422.87) to assist in the investigation of any hate crime (see Appendix).
- (b) Stabilize the victims and request medical attention when necessary.
- (c) Properly protect the safety of victims, witnesses, and perpetrators.
 - 1. Assist victims in seeking a Temporary Restraining Order (if applicable).
- (d) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
- (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/Office] 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.

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6. The victim's protected characteristics and determine if bias was a motivation "in whole or in part" in the commission of the crime.
- (j) Adhere to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.
- (k) Provide information regarding immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).
- (l) Provide the [department/office]'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.

325.4.2 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.

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2. Identity of witnesses, including those no longer at the scene.
 3. 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. 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/office], 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/Office].
- (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.

325.4.3 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/office]'s official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
 2. Expressing the [department/office]'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.

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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/office] chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per Penal Code § 422.92).
- (b) Take reasonable steps to ensure that all relevant facts are documented on an incident and/or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.
- (c) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
- (d) In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning an 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.

325.5 TRAINING

All members of this [department/office] 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.

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- (d) When a gun violence restraining order may be appropriate for prevention of hate crimes (Penal Code § 13519.6).

325.6 APPENDIX

See attachments:

[Statutes and Legal Requirements.pdf](#)

[Hate Crime Checklist.pdf](#)

[Supplemental Hate Crime Report.pdf](#)

Standards of Conduct

326.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Banning Police Department and are expected of all [department/office] 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/office] or a member's supervisors.

326.2 POLICY

The continued employment or appointment of every member of the Banning 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.

326.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any [department/office] supervisor or person in a position of authority, absent a reasonable and bona fide justification.

326.3.1 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/office] 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/office] policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

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The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

326.3.2 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.

326.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California constitutions and all applicable laws, ordinances, and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

326.5 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/office] service:

326.5.1 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/office] or City manuals.
- (b) Disobedience of any legal directive or order issued by any [department/office] member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

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326.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Banning Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non[department/office] 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/office] 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.

326.5.3 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.

326.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity, including but not limited to sexual intercourse, excessive displays of public affection, or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect, or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime, and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this [department/office].
- (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/office].
- (f) Participation in a law enforcement gang as defined by Penal Code § 13670. Participation is grounds for termination (Penal Code § 13670).

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326.5.5 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.

326.5.6 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/office].
 - (a) Members of this [department/office] shall not disclose the name, address, or image of any victim of human trafficking except as authorized by law (Penal Code § 293).
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this [department/office] 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/office] property for personal use, personal gain, or any other improper or unauthorized use or purpose.
- (e) Using [department/office] resources in association with any portion of an independent civil action. These resources include but are not limited to personnel, vehicles, equipment, and nonsubpoenaed records.

326.5.7 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/Office] within 24 hours of any change in residence address or contact numbers.

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- (f) Failure to notify the Department of Human Resources of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

326.5.8 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/office] 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/office] - 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/office] or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this [department/office] or subverts the good order, efficiency and discipline of this [department/office] 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/office] premises.
 - 2. At any work site, while on duty or while in uniform, or while using any [department/office] equipment or system.
 - 3. Gambling activity undertaken as part of an officer official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
 - 1. Unauthorized attendance while on duty at official legislative or political sessions.
 - 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on duty or, on [department/office] property except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.
- (i) Any act on or off duty that brings discredit to this [department/office].

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326.5.9 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/office] or the City.
- (g) Use of obscene, indecent, profane or derogatory language while on duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this [department/office].
- (i) Unauthorized possession of, loss of, or damage to [department/office] property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of [department/office] property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of [department/office] property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.
- (m) Any other on or off duty conduct which any member knows or reasonably should know is unbecoming a member of this [department/office], is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this [department/office] or its members.
- (n) Seeking restraining orders against individuals encountered in the line of duty without the express permission of the Chief of Police.

326.5.10 SAFETY

- (a) Failure to observe or violating [department/office] safety standards or safe working practices.

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- (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.

326.5.11 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.

Information Technology Use

327.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of [department/office] information technology resources, including computers, electronic devices, hardware, software and systems.

327.1.1 DEFINITIONS

Definitions related to this policy include:

Computer system - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented, or licensed by the Banning Police Department that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the [Department/Office] or [department/office] funding.

Hardware - Includes but is not limited to computers, computer terminals, network equipment, electronic devices, telephones (including cellular and satellite), modems, or any other tangible computer device generally understood to comprise hardware.

Software - Includes but is not limited to all computer programs, systems, and applications, including shareware and firmware. This does not include files created by the individual user.

Temporary file, permanent file, or file - Any electronic document, information, or data residing or located, in whole or in part, on the system including but not limited to spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs, or videos.

327.2 POLICY

It is the policy of the Banning Police Department that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the [Department/Office] in a professional manner and in accordance with this policy.

327.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts, or anything published, shared, transmitted, or maintained through file-sharing software or any internet site that is accessed, transmitted, received, or reviewed on any [department/office] computer system.

The [Department/Office] reserves the right to access, audit, and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received, or reviewed over any technology that is issued or maintained by the [Department/Office], including the [department/office] email system, computer network, and/or any information placed into storage on any [department/office] system or device. This includes records of all keystrokes or web-browsing history made at any [department/office] computer or over any [department/office] network. The fact that access to a database, service, or website requires a username or password

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will not create an expectation of privacy if it is accessed through [department/office] computers, electronic devices, or networks.

327.4 RESTRICTED USE

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisors or Watch Commanders.

Members shall not use another person's access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor.

327.4.1 SOFTWARE

Members shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes in accordance with the software company's copyright and license agreement.

To reduce the risk of a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any [department/office] computer. Members shall not install personal copies of any software onto any [department/office] computer.

When related to criminal investigations, software program files may be downloaded only with the approval of the information systems technology (IT) staff and with the authorization of the Chief of Police or the authorized designee.

No member shall knowingly make, acquire or use unauthorized copies of computer software that is not licensed to the [Department/Office] while on [department/office] premises, computer systems or electronic devices. Such unauthorized use of software exposes the [Department/Office] and involved members to severe civil and criminal penalties.

Introduction of software by members should only occur as part of the automated maintenance or update process of [department/office]- or City-approved or installed programs by the original manufacturer, producer or developer of the software.

Any other introduction of software requires prior authorization from IT staff and a full scan for malicious attachments.

327.4.2 HARDWARE

Access to technology resources provided by or through the [Department/Office] shall be strictly limited to [department/office]-related activities. Data stored on or available through [department/office] computer systems shall only be accessed by authorized members who are engaged in an active investigation or assisting in an active investigation, or who otherwise have a legitimate law enforcement or [department/office]-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

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327.4.3 INTERNET USE

Internet access provided by or through the [Department/Office] shall be strictly limited to [department/office]-related activities. Internet sites containing information that is not appropriate or applicable to [department/office] use and which shall not be intentionally accessed include but are not limited to adult forums, pornography, gambling, chat rooms, and similar or related internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

Downloaded information from the internet shall be limited to messages, mail, and data files.

327.4.4 OFF-DUTY USE

Members shall only use technology resources provided by the [Department/Office] while on-duty or in conjunction with specific on-call assignments unless specifically authorized by a supervisor. This includes the use of telephones, cell phones, texting, email or any other "off the clock" work-related activities. This also applies to personally owned devices that are used to access [department/office] resources.

Refer to the Personal Communication Devices Policy for guidelines regarding off-duty use of personally owned technology.

327.5 PROTECTION OF SYSTEMS AND FILES

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care, and maintenance of the computer system.

Members shall ensure [department/office] computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off and password protections enabled whenever the user is not present. Access passwords, logon information, and other individual security data, protocols, and procedures are confidential information and are not to be shared. Password length, format, structure, and content shall meet the prescribed standards required by the computer system or as directed by a supervisor and shall be changed at intervals as directed by IT staff or a supervisor. Passwords for accounts that access CJI are governed by the CJIS Access, Maintenance, and Security Policy.

It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the internet) to a supervisor.

327.6 INSPECTION OR REVIEW

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the [Department/

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Office] involving one of its members or a member's duties, an alleged or suspected violation of any [department/office] policy, a request for disclosure of data, or a need to perform or provide a service.

The IT staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the [department/office] computer system when requested by a supervisor or during the course of regular duties that require such information.

Report Preparation

328.1 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.

328.1.1 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 with 14 days. 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.

328.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate [department/office] approved form unless otherwise approved by a supervisor.

328.2.1 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/office]-approved alternative reporting method (e.g., dispatch log).

328.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

- (a) Anytime an officer points a firearm at any person. (If not documented in a criminal or informational report, the incident shall be documented in the incident notes with block-out information on the subject(s) detained at gunpoint, why they subject(s) were detained and disposition.)
- (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 Shooting Policy)
- (d) Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Reporting 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

328.2.3 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.

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- (b) Suicides.
- (c) Homicide or suspected homicide.
- (d) Unattended deaths (No physician or qualified hospice care in the 20 days preceding death).
- (e) Found dead bodies or body parts.

328.2.4 INJURY OR DAMAGE BY CITY PERSONNEL

Reports shall be taken if an injury occurs that is a result of an act of a City employee. Additionally, reports shall be taken involving damage to City property or City equipment.

328.2.5 MISCELLANEOUS INJURIES

Any injury that is reported to this [department/office] 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.

328.2.6 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES

A report shall be taken when any incident in which a child 18 years or younger suffered an unintentional or self-inflicted gunshot wound. The Records Bureau shall notify the California Department of Public Health (CDPH) of the incident as required by CDPH (Penal Code § 23685).

328.2.7 POTENTIAL PUBLICATION REGARDING VICTIMS OF SEX OFFENSES

The purpose of this section is to establish guidelines for the reporting of sex offenses as required by Penal Code § 293. Penal Code § 293 requires:

- (a) That any employee of a law enforcement agency who personally receives a report from any person, alleging that the person making the report has been the victim of a sex offense shall inform that person that his or her name will become a matter of public record unless he or she requires that it not become matter of public record, pursuant to § 6254 of the Government Code.
 - 1. (Any written report of an alleged sex offense shall indicate that the alleged victim has been properly informed pursuant to § 344.26 (a) and shall memorialize his or her response.
 - 2. No law enforcement agency shall disclose to any person, except the prosecutor the, address of a person who alleges to be the victim of a sex offense.

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3. No law enforcement agency shall disclose to any person, except the prosecutor the name of a person who alleges to be a victim of a sex offense, if that person has elected to exercise his or her right pursuant to Penal Code § 293 and § 6254 of the Government Code.
- (b) For the purposes of Penal Code § 293, sex offenses means any crime listed in paragraph (2) of Subdivision (f) of § 6254 of the Government Code which is defined in Chapter 1 (commencing with § 261) or Chapter 5 (commencing with 281) of Part 1 of the Penal Code. These include: §§ 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, and 422.75.

328.2.8 REPORTING PROCEDURES

- (a) Whenever an officer receives a report from any person, alleging that the person making the report has been the victim of a sex offense, the officer shall inform that person that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record, pursuant to § 6254 of the Government Code.
- (b) After the alleged victim has been advised pursuant to § 344.27 (a) above, the officer will include that information, in addition to the response of the alleged victim. Example: Officer Smith advised Jones pursuant to Penal Code § 293. Jones stated, "I do not want my name in the public record."
- (c) If the alleged victim opts not to have his or her name as part of the public record, the following information shall not be released:
 1. Name of the alleged victim.
 2. Address of the alleged victim.

Note: The information may be released to the prosecutor.

328.2.9 SUPERVISOR RESPONSIBILITY

It shall be the Supervisor's responsibility to assure that reports requiring a Penal Code § 293 notification are properly documented.

328.3 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.

328.3.1 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.

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Supervisors may require, with the foregoing general policy in mind, block printing or typing of reports of any nature for [department/office] consistency.

[See attachment: 2017 Stolen Vehicle Narrative Update.pdf](#)

328.3.2 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.

328.3.3 TIME FRAME FOR REPORT COMPLETION BY PATROL PERSONNEL

All reports written by members of the Banning Police Department shall conform with the requirements and procedures set forth in this General Order and all other appropriate Department publications.

Patrol personnel or other officers filling assignments in the Patrol Division will not go off duty without providing the on-coming watch of the status of calls, investigations, and reports handled during their tour of duty.

- (a) All in-custody and related reports taken by patrol personnel shall be completed and submitted for approval in the following manner. (Overtime to complete in-custody reports must receive prior approval from the on-duty WC who will initial the officer's overtime sheet indicating his approval and acknowledgement of the hours used to complete the report.)
 - 1. Juvenile In-Custody with transport to Juvenile Hall: Report shall be completed and approved before Juvenile's arrival at Juvenile Hall. Three copies of the arrest report shall be submitted to the Juvenile Hall In-Take Office with the juvenile, as required by Riverside County Juvenile Hall.
 - 2. Juvenile In-Custody with release to Parents/Guardians: - Report shall be completed and approved by the end of the officers' work week in which the report was taken unless a time extension is approved by the on-duty Watch Commander. When giving extensions the on duty watch commander will give officers a specific date when the report is due.
 - 3. Adult Felony In-Custody Report shall be completed, approved, and submitted to the District Attorney's Office prior to 1500 hours the day before the defendant's arraignment hearing.
 - 4. Adult Misdemeanor with Booking / Cite Release Report shall be completed and approved by the end of the officers' work week in which the report was taken unless a time extension is approved by the on-duty Watch Commander. When giving extensions the on duty watch commander will give officers a specific date when the report is due.
- (b) All other reports will be completed and approved within fourteen (14) days of the original report date unless a time extension is approved by the on-duty Watch

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Commander. When giving extensions the on duty watch commander will give officers a specific date when the report is due. (Overtime is not authorized to complete non in-custody related reports, unless the on duty Watch Commander determines that the report involves a special circumstance that requires immediate and/or sensitive attention.)

- (c) Supervisors will have the responsibility of assuring that officers comply with this directive.

328.4 REPORT CORRECTIONS

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should complete the Report Correction form stating the reasons for rejection. The original report and the correction form should be returned to the reporting employee for correction as soon as practical. It shall be the responsibility of the originating officer to ensure that any report returned for correction is processed in a timely manner.

328.4.1 INCIDENT NOTES

When an employee responds to a call for service or is involved in self-initiated activity, the employee will document the activity with notes if a report is not warranted. The notes shall be maintained by the officer either in a notebook that they will retain for a period of no less than two years or in the notes section of RIMS under the related incident number.

The notes should be thorough enough to refresh the officer's memory should they need to recall the incident for any future follow-up investigations or is a report needs to be written at a later time.

328.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Records Bureau for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records Bureau may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.

328.6 ELECTRONIC SIGNATURES

The Banning Police Department has established an electronic signature procedure for use by all employees of the Banning Police Department. The Patrol Lieutenant shall be responsible for maintaining the electronic signature system and ensuring that each employee creates a unique, confidential password for his/her electronic signature.

- Employees may only use their electronic signature for official reports or other official communications.
- Each employee shall be responsible for the security and use of his/her electronic signature and shall promptly notify a supervisor if the electronic signature has or may have been compromised or misused.

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328.7 USE OF ARTIFICIAL INTELLIGENCE IN PREPARATION OF REPORTS

Official reports that are generated using artificial intelligence (AI) either fully or partially shall contain the following (Penal Code § 13663)

- (a) On each page of an official report, or within the body of the text, identify every specific AI program used in a manner that makes such identification readily apparent to the reader and prominently state the following: "This report was written either fully or in part using artificial intelligence."
- (b) The signature of the member who is preparing the official report, either in physical or electronic form, verifying that they reviewed the contents of the report and that the facts contained in the official report are true and correct. Except for the official report, a draft of any report created with the use of AI shall not constitute a member's statement.

For purposes of this section artificial intelligence means an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments. AI as used in this section applies to AI systems that automatically draft police report narratives based upon an analysis of in-car or dash-mounted cameras, or body-worn camera audio or video, and AI systems that analyze a law enforcement officer's dictated report to generate a police report narrative automatically enhanced by generative AI (Penal Code § 13663).

See the Generative Artificial Intelligence Use policy for additional guidance on generative AI.

328.7.1 ARTIFICIAL INTELLIGENCE AUDIT TRAIL

The [Department/Office] shall maintain an audit trail for AI generated first drafts or official reports for as long as the official report is retained that, at a minimum, identifies both of the following (Penal Code § 13663):

- (a) The name of the person who used AI to create the report.
- (b) The video and audio footage that is used to create a report, if any.

Media Relations

329.1 PURPOSE AND SCOPE

This policy provides guidelines for the release of official [department/office] information to the media. It also addresses coordinating media access to scenes of disasters, criminal investigations, emergencies, and other law enforcement activities.

329.2 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 ([PIO]s) may prepare and release information to the media in accordance with this policy and the applicable laws regarding confidentiality.

329.3 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/office] 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.

329.3.1 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/Office] 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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329.3.2 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).

329.4 POLICY

It is the policy of the Banning 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.

329.5 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of [department/office] 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.

329.6 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/office] 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/office].
- (c) Under no circumstance should any member of this [department/office] make any comments to the media regarding any law enforcement incident not involving this [department/office] without prior approval of the Chief of Police. Under these circumstances the member should direct the media to the agency handling the incident.

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329.7 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.

329.7.1 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.

329.8 RELEASE OF INFORMATION

The [Department/Office] 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/office] website or other electronic data sources.

329.8.1 INFORMATION LOG

The [Department/Office] 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/office], 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.

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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 [Medical Examiner/JOP].

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated [department/office] 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).

Subpoenas and Court Appearances

330.1 PURPOSE AND SCOPE

This policy establishes the guidelines for [department/office] members who must appear in court. It will allow the Banning Police Department to cover any related work absences and keep the [Department/Office] informed about relevant legal matters.

330.1.1 DEFINITIONS

On-Call - When an employee has appeared in court, or is at the time on-duty, and has been told by a member of the court that he/she is free to leave the court or return to duty, subject to being available by phone or pager if called back.

Standby - When an employee receives a subpoena of a type which allows him or her to not appear in court, but remain available by phone or pager so that he or she may be directed to appear in court within a reasonable amount of time.

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.

330.2 POLICY

Banning Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

330.2.1 SERVICE OF SUBPOENA

Service of a subpoena requiring the appearance of any department employee in connection with a matter arising out of the employee's course and scope of official duties may be accomplished by personal service on the employee or by delivery of two copies of the subpoena on the employee's supervisor or other authorized departmental agent (Government Code § 68097.1; Penal Code § 1328(c)). Subpoena service is also acceptable by courier or court liaison from the court to this department.

330.2.2 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.

330.2.3 ACCEPTANCE OF SUBPOENA

- (a) Only the employee named in a subpoena, his/her immediate supervisor or the department subpoena clerk shall be authorized to accept service of a subpoena. (Penal Code § 1328(c)). Any authorized employee accepting a subpoena shall immediately provide a copy of the subpoena to the department subpoena clerk. The

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subpoena clerk shall maintain a chronological log of all department subpoenas and provide a copy of the subpoena to each involved employee.

- (b) Any supervisor or other authorized individual accepting a subpoena on behalf of another employee shall immediately check available schedules to determine the availability of the named employee for the date listed on the subpoena.
- (c) Once a subpoena has been received by a supervisor or other authorized individual, a copy of the subpoena shall be promptly provided to the subpoena clerk as well as a copy to the individually named employee.

330.2.4 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 or missing court. If, due to illness or injury, the named employee is unable to appear in court as directed by a previously served subpoena, he/she shall, at least one hour before the appointed date and time, inform the subpoena clerk or the Watch Commander of his/her absence. It shall then be the responsibility of the subpoena clerk to notify the issuing authority of the employee's unavailability to appear.

If the immediate supervisor or other authorized individual knows that 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)).

330.2.5 COURT STANDBY

To facilitate court standby 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 home phone number, and to provide accurate and reasonably reliable means or methods for contact.

If an employee on standby changes his/her location during the day, the employee shall notify the subpoena clerk of how he/she can be reached by telephone. Employees are required to remain on standby each day the case is trailing. In a criminal case the Deputy District Attorney handling the case is the only person authorized to excuse an employee from standby status.

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330.2.6 OFF-DUTY RELATED SUBPOENAS

Employees receiving valid subpoenas for actions taken off-duty not related to their employment with Banning Police Department shall comply with the requirements of the subpoena. Employees receiving these subpoenas are not compensated for their appearance and arrangements for time off shall be coordinated through their immediate supervisor.

330.2.7 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.

330.3 SUBPOENAS

Only [department/office] members authorized to receive a subpoena on behalf of this [department/office] or any of its members may do so. This may be accomplished by personal service to the officer or by delivery of two copies of the subpoena to the officer's supervisor or other authorized [department/office] agent (Government Code § 68097.1; Penal Code § 1328(c)).

The party that issues a civil subpoena to an officer to testify as a witness must tender the statutory fee of \$275 with the subpoena for each day that an appearance is required before service is accepted of the subpoena (Government Code § 68097.2).

An immediate supervisor or authorized individual may refuse to accept service for a criminal subpoena if (Penal Code § 1328(d)(e)):

- (a) He/she knows that he/she will be unable to deliver a copy of the subpoena to the named officer within sufficient time for the named officer to comply with the subpoena.
- (b) It is less than five working days prior to the date listed for an appearance and he/she is not reasonably certain that service can be completed.

If, after initially accepting service of a criminal subpoena, a supervisor or other authorized individual determines that he/she is unable to deliver a copy of the subpoena to the named officer within sufficient time for the named officer to comply with the subpoena, the supervisor or the subpoena clerk shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

330.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf of or at the request of any party other than the City Attorney or the prosecutor shall notify his/her immediate supervisor without delay regarding:

- (a) Any civil case where the City or one of its members, as a result of his/her official capacity, is a party.
- (b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.

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- (d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Banning Police Department.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Banning Police Department.

The supervisor will then notify the Chief of Police and the appropriate prosecuting attorney as may be indicated by the case. The Chief of Police should determine if additional legal support is necessary.

No member shall be retaliated against for testifying in any matter.

330.3.2 CIVIL SUBPOENA

The [Department/Office] will compensate members who appear in their official capacities on civil matters arising out of their official duties, as directed by the current memorandum of understanding or collective bargaining agreement.

The [Department/Office] should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

330.3.3 OFF-DUTY RELATED SUBPOENAS

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

330.4 FAILURE TO APPEAR

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

330.5 STANDBY

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the [Department/Office].

If a member on standby changes his/her location during the day, the member shall notify the designated department member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

330.5.1 PREPARATION FOR TESTIMONY

Before the date of testifying, the subpoenaed officer shall request a copy of relevant reports and become familiar with their content in order to be prepared for court.

330.5.2 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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330.6 COURTROOM PROTOCOL

When appearing in court, members shall:

- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in the [department/office] uniform or business attire.
- (c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

330.6.1 TESTIMONY

Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with the content in order to be prepared for court.

330.7 OVERTIME APPEARANCES

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with the current memorandum of understanding or collective bargaining agreement.

Reserve Officers

331.1 PURPOSE AND SCOPE

The Banning Police Department Reserve Unit was established to supplement and assist regular sworn police officers in their duties. This unit provides professional, sworn volunteer reserve officers who can augment regular staffing levels.

331.2 SELECTION AND APPOINTMENT OF POLICE RESERVE OFFICERS

The Banning 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.

331.2.1 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.

331.2.2 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.

331.2.3 COMPENSATION FOR POLICE RESERVE OFFICERS

Reserve Officers are not provided with any compensation for their work in behalf of the Department. All Reserve Officer appointees are issued all the safety equipment issued to regular sworn officers. All other equipment is purchased at the expense of the Reserve Officer. All property issued to the Reserve Officer shall be returned to the Department upon termination or resignation.

331.2.4 EMPLOYEES WORKING AS RESERVE OFFICERS

Qualified employees of this department, when authorized, may also serve as reserve officers. However, the Department must not utilize the services of a reserve or volunteer in such a way that it would violate employment laws or labor agreements (e.g., a detention officer working as a reserve officer for reduced or no pay). Therefore, the Reserve Coordinator should consult the Department of Human Resources prior to an employee serving in a reserve or volunteer capacity (29 CFR 553.30).

331.3 DUTIES OF RESERVE OFFICERS

Reserve officers assist regular officers in the enforcement of laws and in maintaining peace and order within the community. Assignments of reserve officers will usually be to augment the Patrol Division. Reserve officers may be assigned to other areas within the Department as needed. Reserve officers are required to work a minimum of 16 hours per month.

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Reserve Officers

331.3.1 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.

331.3.2 RESERVE OFFICER ASSIGNMENTS

All reserve officers will be assigned to duties by the Reserve Coordinator or his/her designee.

331.3.3 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

331.4 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.

331.4.1 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.

331.4.2 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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331.4.3 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 Banning 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.

331.4.4 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.

331.4.5 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.

331.4.6 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.

331.4.7 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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331.5 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.

331.5.1 SPECIAL AUTHORIZATION REQUIREMENTS

Reserve officers certified as Level I may, with prior authorization of the Reserve Coordinator and on approval of the Division Lieutenant, 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 Lieutenant, 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.

331.5.2 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.

331.5.3 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.

331.5.4 UNIFORM

Reserve officers shall conform to all uniform regulation and appearance standards of this department.

331.5.5 INVESTIGATIONS AND COMPLAINTS

If a reserve officer has a complaint made against him/her or becomes involved in an internal investigation, that complaint or internal investigation may be investigated by the Reserve Coordinator, at the discretion of the Patrol Division Lieutenant.

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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331.5.6 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.

331.6 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.

331.6.1 CARRYING WEAPON ON DUTY

Penal Code § 830.6(a)(1) permits qualified reserve officers to carry a loaded firearm while on-duty. It is the policy of this department to allow reserves to carry firearms only while on-duty or to and from duty.

331.6.2 CONCEALED FIREARMS PROHIBITED

No reserve officer will be permitted to carry a concealed firearm while in an off-duty capacity, other than to and from work, except those reserve officers who possess a valid CCW permit. An instance may arise where a reserve officer is assigned to a plainclothes detail for his/her assigned tour of duty. Under these circumstances, the reserve officer may be permitted to carry a weapon more suited to the assignment with the knowledge and approval of the supervisor in charge of the detail.

Any reserve officer who is permitted to carry a firearm other than the assigned duty weapon may do so only after verifying that the weapon conforms to departmental standards. The weapon must be registered by the reserve officer and be inspected and certified as fit for service by a departmental armorer.

Before being allowed to carry any optional firearm during an assigned tour of duty, the reserve officer shall have demonstrated his/her proficiency with said weapon.

When a reserve officer has satisfactorily completed all three phases of training (as outlined in the Field Training section), he/she may be issued a permit to carry a concealed weapon. The decision to issue a concealed weapon permit will be made by the Chief of Police with input from the Reserve Program Coordinator and administrative staff. In issuing a concealed weapon permit a reserve officer's qualification will be individually judged. A reserve officer's dedication to the program and demonstrated maturity, among other factors, will be considered before a concealed weapon permit will be issued. Once issued, the concealed weapon permit will be valid only for as long as the reserve officer remains in good standing as a Reserve Officer with the Banning Police Department.

331.6.3 RESERVE OFFICER FIREARM TRAINING

All reserve officers are required to maintain proficiency with firearms used in the course of their assignments. Reserve officers shall comply with all areas of the firearms training section of the Policy Manual.

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331.7 EMERGENCY CALL-OUT FOR RESERVE PERSONNEL

The Reserve Coordinator shall develop a plan outlining an emergency call-out procedure for reserve personnel.

Outside Agency Assistance

332.1 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.

332.2 POLICY

It is the policy of the Banning 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/office].

332.3 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/office], 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/office].

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/office] until arrangements for transportation are made by the outside agency. Probation violators who are temporarily detained by this [department/office] will not ordinarily be booked at this [department/office]. Only in exceptional circumstances, and subject to supervisor approval, will this [department/office] 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.

332.3.1 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 Banning 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.

332.4 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.

332.5 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.

332.6 MANDATORY SHARING

Equipment and supplies purchased with federal funds or grants that require such equipment and supplies be shared with other agencies should be documented and updated as necessary by the Administration 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 Sergeant should maintain documentation that the appropriate members have received the required training.

Registered Offender Information

333.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Banning Police Department will address issues associated with certain offenders who are residing in the jurisdiction and how the [Department/ Office] will disseminate information and respond to public inquiries for information about registered sex, arson and drug offenders.

333.2 POLICY

It is the policy of the Banning 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.

333.3 REGISTRATION

The Detective Bureau 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.

333.3.1 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.).

333.4 MONITORING OF REGISTERED OFFENDERS

The Detective Bureau 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 Detective Bureau supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Banning Police Department personnel, including timely updates regarding new or relocated registrants.

333.5 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 Banning Police Department's website. Information on sex registrants placed on the Banning Police Department's website shall comply with the requirements of Penal Code § 290.46.

The Records Supervisor may release local registered offender information to residents only in accordance with applicable law and in compliance with a California Public Records Act request (Government Code § 7920.000 et seq.; Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1).

333.5.1 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).

333.5.2 RELEASE NOTIFICATIONS

Registrant information that is released should include notification that:

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- (a) The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.
- (b) The information is provided as a public service and may not be current or accurate.
- (c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.
- (d) The crime for which a person is convicted may not accurately reflect the level of risk.
- (e) Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.
- (f) The purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders (Penal Code 290.45).

Major Incident Notification

334.1 PURPOSE AND SCOPE

Incidents that are of significant nature and that fall into listed criteria require notification to certain members of this department. It is critical that staff members are informed of certain incidents in order to apprise their superiors and properly address inquiries from members of the press.

334.2 MINIMUM CRITERIA FOR NOTIFICATION

- (a) The following incidents/situations require immediate notification to the responsible Lieutenant. If the Lieutenant is not available, contact the Captain directly. If both the Lieutenant and Captain are not available, the Chief of Police will need to be contacted directly.
1. All homicides or suspicious deaths.
 2. All officer involved shooting incidents (including shooting of any animal).
 3. Any discharge of an officer(s) firearm - intentional, accidental (regardless of injury).
 4. All officer injuries requiring medical attention.
 5. Serious illness or hospitalization of department personnel.
 6. All officer involved traffic accidents requiring medical attention to any involved parties. (moderate-serious).
 7. Arrest, detention, or booking of any employee by other law enforcement agency.
 8. Investigations that involve criminal conduct by department employees.
 9. Pursuits that result in a collision, injury, or death.
 10. Pursuits that result in high media exposure (live TV) or unusual damage.
 11. Deaths or serious injuries to suspects in, or being taken into, custody.
 12. Any terrorism incidents.
 13. Hate crime incidents.
 14. Arrests of VIP's, notables, or outside agency sworn officers.
 15. Critical incidents, local disasters, 11-99.
 16. Media note-worthy breaking events (bank robbery, hostage situation, home invasion robbery).
 17. SEB, HDT, activations.
 18. High profile search warrants.
 19. Search and rescue operations
 20. Evacuations of any type.

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Major Incident Notification

- (b) When notifying the Lieutenant, Captain, or Chief of Police, the following format should be adhered to:
1. Brief of incident/problem.
 2. Provide names and phone numbers if necessary.
 3. Response plan initiated.
 4. Resources deployed.
 5. Notifications initiated.
 6. Proposed plan for consideration.
 7. Tactics or plan for incident.
 8. Provide a primary and/or secondary plan.

334.3 WATCH COMMANDER RESPONSIBILITY

The Watch Commander is responsible for making the appropriate notifications. The Watch Commander shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Watch Commander shall attempt to make the notifications as soon as practicable. Notification should be made by calling the department assigned cell phone number first, home telephone number second and then by any other available contact numbers.

334.3.1 STAFF NOTIFICATION

In the event an incident occurs described in this policy, Administrative Staff will be notified in accordance with this policy.

334.3.2 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.

334.3.3 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 appropriate Lieutenant.

334.3.4 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.

Incident Debriefing

335.1 PURPOSE AND SCOPE

The purpose of this General Order is to identify which department personnel should attend Incident Debriefings.

335.2 POLICY FOR INCIDENT DEBRIEFINGS

When a supervisor determines that an incident debriefing is necessary then the following procedure shall be followed:

- (a) The supervisor conducting the debriefing shall make arrangements as soon as reasonably possible for all department personnel involved in the incident to attend the debriefing. This includes officers, dispatchers, volunteers, and other department employees that may have been involved in the incident.
- (b) The debriefing will be conducted in a manner where everyone involved is allowed the opportunity to speak freely and provide constructive criticism or praise.
- (c) If during the debriefing issues arise that are in direct conflict with the department's manual then the supervisor in charge of the debriefing shall submit a memo, via chain of command, to the Chief of Police identifying what the conflict was and recommendations on how to avoid the conflict in the future.

Death Investigation

336.1 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.

336.2 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 Investigation Division Commander as necessary. The Watch Commander will make notification to command staff in accordance with the Major Incident Notification Policy.

336.2.1 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.

336.2.2 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/Office], 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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336.2.3 REPORTING

All incidents involving a death shall be documented on the appropriate form.

336.2.4 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 Bureau 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 Bureau 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.

336.2.5 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)).

336.2.6 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.

336.3 POLICY

It is the policy of the Banning 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.

336.4 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.

336.5 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.

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If a deceased person has been identified as a missing person, this [department/office] 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.

Identity Theft

337.1 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.

337.2 REPORTING

- (a) In an effort to maintain uniformity in reporting, officers presented with the crime of identity theft (Penal Code § 530.6) shall initiate a report for victims residing within the jurisdiction of this department when the crime occurred. For incidents of identity theft occurring outside this jurisdiction, officers should observe the following:
 - 1. For any victim not residing within this jurisdiction, the officer may either take a courtesy report to be forwarded to the victim's residence agency or the victim should be encouraged to promptly report the identity theft to the law enforcement agency where he or she resides.
- (b) While the crime of identity theft should be reported to the law enforcement agency where the victim resides, officers of this department should investigate and report crimes occurring within this jurisdiction which have resulted from the original identity theft (e.g., the identity theft occurred elsewhere, but the credit card fraud occurred and is reported in this jurisdiction).
- (c) Officers should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application).
- (d) Officers should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and DMV) with all known report numbers.
- (e) The reporting officer should inform victims of identity theft that the California Identity Theft Registry is available to help those who are wrongly linked to crimes. The registry can be checked by law enforcement and other authorized persons to investigate whether a criminal history or want was created in the victim's name (Penal Code § 530.7). Information regarding the California Identity Theft Registry can be obtained by calling toll free (888) 880-0240.
- (f) Following supervisory review and departmental processing, the initial report should be forwarded to the appropriate detective for follow up investigation, coordination with other agencies and prosecution as circumstances dictate.

Reporting Damage to Department Vehicles

338.1 PURPOSE AND SCOPE

The purpose of this order is to establish accountability toward unreported damage to patrol units and all other department vehicles. The damage that shall be reported is as follows but is not limited to, obvious traffic collision damage, dents, scrapes, gouges, etc. Administration and the City Yards personnel are well aware of the normal wear and tear of police vehicles and damage will be considered on a case by case basis.

338.2 POLICY

All patrol officers and those with assigned take home units shall inspect their vehicle at the beginning of each shift. Any damage found will be reported to their supervisor immediately. Patrol shall inspect their vehicle before leaving the pit area prior to any call for service. If an officer leaves for an in progress call prior to checking his or her unit and then later returns and locates damage to that unit, they will be held responsible for the damage. In the likely event that an officer has to drive other than their assigned unit, they shall inspect which ever unit they drive for that day.

338.2.1 DAMAGE REPORTING

Officers shall write a memorandum to their respective Lieutenant describing in detail the damage found on the vehicle. The officer will also complete the Patrol Car Diagram showing where the damage is located on the vehicle.

The damage noted in this memorandum and diagram will be compared against the unit damage log located in the Watch Commander's Office.

338.2.2 SUPERVISOR RESPONSIBILITIES

The Supervisor will check to see if the noted damage in the report is consistent with the damage to the vehicle. A copy shall be placed in a book which will be provided and maintained in the Watch Commander's Office. The signed original will go to administration.

Private Persons Arrests

339.1 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.

339.2 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.

339.3 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.

339.4 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

339.5 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.

Community-Oriented Policing

340.1 PURPOSE AND SCOPE

The City of Banning has developed a Community-Oriented Policing (COP) strategy to identify, analyze, and resolve the crime, disorder and service problems that most effect the public and diminish the resources of the Police Department. In developing this strategy, it is recognized that community institutions are key partners with the Police Department in the creation of a safe, secure community. It is further recognized that the Department cannot succeed in achieving either its basic goals or the goals of this program without both the operational assistance and political support of the community.

The City shall institutionalize the use of this strategy so that problem solving becomes more strongly integrated into routine police activities. As this approach involves police personnel working together with municipal and community resources in the delivery of law enforcement and community services, it is consistent with the mission, goals and values of the Department.

340.2 COMMUNITY-ORIENTED POLICING POLICY

It is the policy of the Banning Police Department to encourage and support employees in the use of the Community-Oriented Policing strategy, in accordance with the procedures set forth herein.

340.2.1 DEFINITION OF TERMS

- (a) **Event** - An occurrence at a single time and place that harms or threatens to harm one or more individuals.
- (b) **Problem** - A group of events, similar in one or more ways, occurring in the community, that are of concern to the police and the public.
- (c) **Community-Oriented Policing Strategy** - A process comprised of four stages:
 - 1. **Scanning** - Identifying potential problems and determining if more attention is required.
 - (a) Some problems identified during this process may be so severe as to warrant immediate action, which should be taken as dictated and documented as part of the screening process.
 - 2. **Analysis** - Finding the characteristics, scope, consequences, and causes of the problem by collecting information from all appropriate sources. After the analysis is complete the problem needs to be clarified and a determination made as to whether the problem exists as originally stated. All parties should be in agreement as to the nature of the problem before action is taken.
 - 3. **Response** - Developing and implementing a solution to the problem by working with whatever public and private organizations and individuals are appropriate.

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4. **Assessment** - Determining whether the response was implemented correctly and whether it had the desired effect on the problem.
5. **Problem Analysis Model.** Guidelines for aiding in the analysis of problems. This set of guidelines is to be used in the analysis stage of the Community-Oriented Policing strategy and is comprised of a three-part checklist, as follows:
 - (a) **Players**-The characteristics and role of victims, offenders, and third parties (e.g. witnesses, residents, bystanders, informants, and others) who are impacted by, and/or involved in, the problem.
 - (b) **Incidents** - The characteristics and role of the physical setting and social context where the problem takes place, and also the actions of the players before, during, and after the events that create the problem.
 - (c) **Responses** - The reactions of the citizens and public and private organizations to the occurrences of the events that make up the problem.
6. **Planning Coordinator** - The person designated by the Chief of Police to coordinate the total efforts of the Police Department, municipal and community resources, in the COP strategy.
7. **Patrol Coordinator** - The Patrol Officer designated to coordinate the solving of each specific problem identified by this process. Normally the Patrol Coordinator will be the Officer most familiar with the problem who is working the shift during which the problem is most prevalent.
8. **Task Force** - A group of individuals representing various Police Department, municipal and community concerns.

340.3 STRATEGY ADMINISTRATION

- (a) The Division Lieutenant and each supervisor is responsible for ensuring that officers and civilian employees are familiar with the COP strategy, and for insuring that the proper support is available for its use in addressing crime, disorder, and service problems.
- (b) A COP Task Force will be created to address, guide, and support Departmental efforts in using the COP strategy.
 1. This Task Force will be comprised of, but not limited to, members from the following areas: Police Department personnel, Code Enforcement, City Engineer, Building Official, City Planner.. Fire Department, and, when appropriate, community representatives and representatives of other governmental agencies (Health Department, Parole/Probation, etc.).
 2. Task Force members will hold discussions and brainstorming sessions to discuss various methods of solving problems and making recommendations to

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the Chief of Police on utilization of Police Department, municipal, and community resources.

3. Normally, a supervisor will be appointed as the COP Task Force Planning Coordinator, and will be responsible for carrying out tasks needed and/or recommended by the COP Task Force.
4. The Task Force will meet as needed. The Chief of Police or his designated representative shall chair the meetings.

340.4 PLANNING COORDINATOR DUTIES

The Planning Coordinator will assist in supporting the Task Force effort by:

- (a) Coordinating the analysis and action plan of the selected problems, upon the direction of the Chief of Police.
- (b) Tracking the performance of the Task Force Efforts.
- (c) Maintaining records, developing strategies, and initiating correspondence pertinent to the Task Force efforts.

340.4.1 ADDITIONAL DUTIES

The Division Lieutenant and all supervisors assist the Task Force as appropriate on some or all stages of the COP strategy.

340.5 IMPLEMENTATION

- (a) The Division Lieutenant and all supervisors will be responsible for seeing that problems in their areas of responsibility are identified. This will be accomplished in four ways:
 1. Officer-initiated efforts. The Division Commander and all supervisors will encourage officers and other personnel to identify possible or actual problem areas.
 2. Externally initiated efforts. Supervisors will assign potential problems to their officers, based on complaints received from citizens, either known or anonymous.
 3. Supervisor-initiated efforts. Supervisors will identify potential problems and assign them to officers or civilians under their supervision. After preliminary Investigation, the supervisor and officer/civilian will determine if a problem exists that can be addressed using the COP strategy.
 4. COP Task Force initiated efforts. The Chief of Police, Division Lieutenant and supervisors will review patterns and trends identified by Departmental activity and by the Task Force, to determine if the problems are appropriate for the application of the POP strategy.

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- (b) Watch Commanders have the responsibility and authority to allocate their resources in a manner that ensures that the COP strategy is implemented.
 - 1. When the decision is made that the problem should be addressed using COP, the Watch Commander will ensure that a Problem Analysis Report is completed by the Patrol Coordinator and forwarded to the COP Task Force. Watch Commanders will support the Patrol Coordinator in his/her specific problem assignment and assure that the Patrol Coordinator has sufficient time free from other duties to address the assigned problem.
- (c) The Task Force will discuss and analyze methods and response options, and assess results, at regularly scheduled meetings. Task Force meetings will help to ensure that duplication of effort is avoided and that the COP strategy is fully understood and used.
- (d) Personnel will present problems to the Task Force, using the Problem Analysis Report, early in the analysis stage of the strategy.
- (e) Department members identifying and handling problems are to complete the Problem Analysis Report during the course of their work on the problem, and submit the form to the Planning Coordinator. At the completion of the problem-solving effort, the form is to be used as a cover sheet for submission of all pertinent information and for filing. The form can also be used to inform supervisors of progress throughout the COP effort.
- (f) The Division Lieutenant will ensure that the COP Task Force, through the Planning Coordinator:
 - 1. Looks for and identifies trends and patterns in crimes that could be symptoms of problems. Watch Supervisors will be notified of possible problems.
 - 2. Provides requested information to Department members who are addressing problems. Requests for information should be directed to the Planning Coordinator and recorded on the POP form.
- (g) The Planning Coordinator will maintain files on COP efforts that will be available for use and review by Department members handling problems, supervisors, and management staff.
- (h) The Planning Coordinator will be responsible for coordinating site visits and disseminating information requested by individuals and organizations outside the Department.

340.6 SYSTEMS EVALUATION

The Planning Coordinator will provide the Chief of Police and Task Force with monthly reports of the status of all problems addressed, during the previous week, and a progress report on those problems that are in the response mode of the COP strategy.

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340.7 FISCAL YEAR REPORTS

The Planning Coordinator will issue a fiscal year report to the Chief of Police and Task Force on the problems addressed during the period of the report. The Planning Coordinator will consult with members of the Task Force and Departmental members who have been assigned to handle the problems, and will also review the COP problem analysis report in the preparation of the report. The annual report on problem solving will include summaries of the problems, the efforts that were taken to solve those problems, and recommendations for modification of the COP strategy.

Chaplain Program

341.1 PURPOSE AND SCOPE

The purpose of the Chaplain Program is to provide Department members and their family access to clergy from the religious community.

341.1.1 CHAPLAIN PROGRAM DEFINED

- (a) The Police Department Chaplain Program is an integral part of the Department Employee Assistance Program.
- (b) Police Chaplains are available to assist members of the Department in any variety of situations in which a religious counselor would be of benefit (e.g., death notifications, serious injury notifications, Intra-family crisis situations, or injury of police officers, etc.). These chaplains have completed a selection process and background investigation, and are volunteer members of the Department.
- (c) Members of the Department are encouraged to request the assistance of a chaplain in any case where they may be helpful, regardless of the nature of situation.

341.2 CHAPLAIN SELECTION PROCESS

- (a) Qualifications and qualities for appointment to the Chaplain Program:
 - 1. Police Department Chaplains are classified as volunteers.
 - 2. Departmental Chaplains shall be appointed by the Chief of Police. The tenure of service is at the discretion of the Chief of Police.
 - 3. Is an ordained or licensed member of the clergy in good standing or retired in good standing. Withdrawal of religious organizations' endorsement of a chaplain brings immediate separation from duty with Banning Police Department.
 - 4. The prospective chaplain must have a minimum of five (5) years of experience in the ministry.
 - 5. The prospective chaplain must have a written endorsement to participate in the Chaplain program from a recognized body.
 - 6. Relates easily to people.
 - 7. Maintains high spiritual and moral standards.
 - 8. Manifests a broad base of experience and professional maturity, emotional stability, and personal flexibility.
 - 9. Is willing to respond to situations where a chaplain's presence on a 24-hour call basis.
 - 10. Demonstrates a willingness to ride with patrol officers.

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11. Willingness to participate in appropriate training courses, seminars, conferences either directly or indirectly related to his/her role as a chaplain.
12. Never convicted of a felony or offenses involving moral turpitude.
13. Successful completion of a background investigation.
14. Willingness to participate in appropriate Chaplains Association.

341.3 DUTIES AND RESPONSIBILITIES

341.3.1 GENERAL

- (a) As a specialist in the field of religious guidance, the police chaplain should be an advisor of the Chief of Police in all matters pertaining to moral, spiritual and religious welfare of police personnel.
- (b) Law enforcement officers often feel the need of a neutral person in whom to confide more freely than they might with their supervisors, fellow officers, members of their families, or their clergy, especially in death, serious injury or job-related crisis. Furthermore, much of the effort and manpower of the department is devoted to community services not directly related to crime. Some of these services may be rendered or followed up on by the chaplain.
- (c) The police chaplain should be available, as requested, to enforcement officers and their families in times of personal stress and/or crisis.
- (d) The police chaplain should assist department officials in making notifications to families of officers receiving serious injury or upon the death of a law enforcement officer.
- (e) The police chaplain should be encouraged to visit sick and injured enforcement personnel at home or in the hospital.
- (f) The police chaplain may wish to make appointments for counseling or make referrals involving marital disputes or quarrels, as the situation indicates, to professionally accredited counseling services.
- (g) No person who provides chaplain services to members of the department may work or volunteer for the Banning Police Department in any capacity other than that of chaplain.

341.3.2 FIELD SITUATIONS

- (a) The police chaplain should be encouraged to ride in a police car on patrol. When it is necessary, the Department shall authorize the police chaplain to ride. This should be done frequently during the initial orientation of a police chaplain and be continued as an on-going activity at least once monthly to keep the chaplain in touch with pressures

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and problems that confront men and women on the street. This will give officers the opportunity to discuss situations when they have tried to help persons in crisis.

- (b) As a consultant to officers in family crisis and stress situations, the police chaplain should assist officers to do their jobs. In these cases, the police chaplain shall not intervene unless requested to do so by the officer.
- (c) The police chaplain should be available to any officer to assist in any crisis situation the officer is encountering. This may be as a consultant or assistant to the officer who is actually conducting the investigation.
- (d) The law enforcement chaplain may be called to assist law enforcement officers when there is an accident involving serious injury and when there is need to provide comfort to injured parties and their families.
- (e) The law enforcement chaplain should counsel law enforcement officers in dealing with possible religious frauds, seeking to take advantage of the community.

341.3.3 DEPARTMENT ADMINISTRATION AND TRAINING

- (a) Law enforcement chaplains shall serve in ceremonial functions, consistent with their positions: funeral and memorial services where they represent the police department; and at academy graduations, and religious and civil ceremonies.
- (b) The law enforcement chaplain should coordinate and plan religious services and/or religious education are programs for the department, incarcerated persons, and community.
- (c) The law enforcement chaplain should make presentations to new employees. These presentations may deal with personnel and family orientation, personal stress, family crisis intervention, or acquainting officers with the services of the law enforcement chaplain.
- (d) The police chaplain should attend training activities.
- (e) Police chaplains should frequently attend roll calls/briefings, even though they may or may not take active parts.
- (f) Police chaplains should be on call through police dispatchers.
- (g) Police chaplains should follow proper agency procedures as prescribed in the operations manuals of the Banning Police Department.
- (h) The police chaplain should be familiar with communication procedures established by the Banning Police Department and should conform to them (i.e., the "radio signal" code). Radio transmissions should be kept to a minimum and directives from police dispatchers should be followed promptly. The police chaplain on duty should be available to the dispatcher at all times, either by radio or telephone.

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- (i) The police chaplain should be subject to proper protocol procedures and discipline and should report to the investigating officer when arriving at the scene of an emergency.
- (j) The police chaplain should make regular reports of activities as required by Banning Police Department.
- (k) Police chaplains should not release any information to the news media, insurance agencies or attorneys regarding cases where they are involved. All information secured should be held in confidence and used only for the benefit of the person or officer involved.

341.3.4 RELATIONSHIP WITH THE MINISTERIAL COMMUNITY

- (a) The police chaplain should act as liaison between the local ministerial alliance or association and the enforcement agency.
- (b) The police chaplain should maintain professional relationships with the clergy of the community at all times.
- (c) The police chaplain should make referrals of persons in crisis to clergy of their choice, as soon as possible.
- (d) The police chaplain should not usurp the position of pastor or clergy, or act in an unethical way at any time.
- (e) Chaplains may not proselytize or attempt to recruit members of the department or the public into a religious affiliation while on-duty unless the receiving person has solicited spiritual guidance or teaching. If there is any question as to the receiving person's intent, chaplains should verify that the person is desirous of spiritual counseling or guidance before engaging in such discussion.
- (f) Chaplains may not accept gratuities for any service or follow-up contact that was provided while functioning as a chaplain for the Banning Police Department.

341.3.5 SERVICE TO THE COMMUNITY

- (a) The police chaplain should minister to any family in a crisis situation involves the police department, whether bodily injury, mental disturbance or other occasions at the discretion of the investigating officer. The chaplain shall minister to victims and members of families in a meaningful way.
- (b) The police chaplain shall seek to contact, as soon as possible, the clergy or minister representing the faith of victims of crisis or emergency situations, so the victims can be ministered to by individuals oft on a continuing basis.
- (c) The police chaplain should make death notifications as requested by the police dispatcher (homicide, suicide, accidental or natural death are cases when it would be helpful for a police chaplain to be accompanied by an officer, when delivering a

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death notice, deal mentally ill persons, an attempted suicide, or a confused elderly wandering the streets. Police chaplains may request that officers accompany them.

- (d) The police chaplain should seek to counsel and minister to persons attempting suicide and families of those who have committed Suicide.
- (e) Because of orientation in religion and psychology, the police chaplain should work with domestic disturbances, the mentally disturbed, situations, neighborhood problems, racial problems, religious fraud and others. The orientation may be utilized at the discretion of the agency.
- (f) The police chaplain should become involved in domestic situation when the Department feels that the chaplain's services may be families involved.
- (g) The police chaplain should counsel with youth of the community families when there is a request.
- (h) The police chaplain should console and comfort victims and relatives in community disasters, such as floods, fires, tornadoes and explosions.

341.4 OPERATION OF THE CHAPLAIN PROGRAM

- (a) The Chaplain Program will operate directly from the Office of the Chief of Police.
- (b) A Chaplain Program Coordinator (sworn officer) will be appointed by the Chief of Police. The Chief of Police will appoint one chaplain as the Senior Chaplain.
- (c) The Senior Chaplain will be responsible for supervision of the other chaplains, and in this role acts with the authority of the Chief of Police.
- (d) The Senior Chaplain will maintain a current roster of the Department's chaplains, a call-out rotation list and chaplain activity log. He will make certain that the Dispatcher is provided with' all updates to the call-out rotation list.
- (e) The Senior Chaplain will prepare an annual report to be given to the Chief of Police, which summarizes chaplain activities for the previous year.
- (f) The Chief of Police, the Senior Chaplain, and the Chaplain Program Coordinator shall meet on a periodic basis for the purpose of coordinating or guiding the program.

341.5 REGULATIONS AND PROCEDURES

- (a) Chaplains have the authority to charge telephone calls to the Department in cases where long distance calls are necessary in connection with Departmental business.
- (b) Chaplains shall not publicly criticize the action of any law enforcement officer, Departmental official, fellow chaplain, or Departmental policy or action. Any chaplain having a grievance is expected to take up the matter through proper official channels starting with the Senior Chaplain.

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- (c) Chaplains shall not release any information to the news media, insurance agencies, or attorneys regarding any case. All information is expected to be held in confidence and used only for the benefit of the person or officers involved.

341.6 DEVELOPING THE CHAPLAIN'S ROLE

- (a) Counseling of Departmental Personnel - Counseling is an important phase of the chaplain's work. At the request of the officer, the chaplains are encouraged to provide counseling and consultation (according to their training, skills and time available) for departmental personnel and their families in personal, marital, family, job-related and other problems. It is understood that this will be on a short-term basis.
- (b) Confidentiality - The Department employee who comes to the chaplain for counseling should clearly understand that this is an "off the record" and privileged communication which will not be reported to the Department administration or have any bearing on his/her job status. This element of confidentiality is crucial to the overall effectiveness of the chaplains in their rapport with Departmental personnel.
 - 1. Department chaplains shall be familiar with state evidentiary laws and rules pertaining to the limits of the clergy-penitent privilege and shall inform department members when it appears reasonably likely that the member is discussing matters that are not subject to the clergy-penitent privilege. In such cases, the chaplain should consider referring the member to a non-department counseling resource.
 - 2. No chaplain shall provide counsel to or receive confidential communications from any Banning Police Department employees concerning an incident personally witnessed by the chaplain or concerning an incident involving the chaplain
- (c) Referral to Other Professional Resources - If, in a chaplain's opinion, a long term counseling program is desirable for a particular Department employee or family member, he/she may refer the individual to the Departmental psychiatrist, an appropriate community agency or to a therapist in private practice.
- (d) Record of Next of Kin and Religious Affiliation - Next of kin and religious affiliation may be kept on each officer's personnel card, at the officer's discretion. This information is important when an officer has been seriously injured or has died in the line of duty, so that emergency notification by the police chaplain and Department staff can be made expeditiously to the next of kin.

341.7 DEPARTMENTAL REQUIREMENTS

341.7.1 PROCESSING

- (a) Each chaplain is issued a police identification, radio set belt holder, and a jacket with appropriate insignia.

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Chaplain Program

- (b) The Department will maintain a permanent ride-along release form on file for each chaplain.
- (c) Each chaplain has authorization to ride any time desired, provided:
 - 1. He/she is an identified member of the Banning Police Department's Chaplain Program.
 - 2. A completed Ride-along Form is on file with the Department.
 - 3. There is availability of a patrol unit.
 - 4. Chaplains will be given preference over other citizens in the scheduling of a ride-along.
- (d) Each chaplain may be issued a portable radio upon his/her request for a tour of duty.
- (e) The Watch Commander/supervisor is to be notified of requests for ride-alongs and make the appropriate assignment.
- (f) All measures should be exercised so as not to expose the members of this program to any danger.
- (g) Each chaplain is required to complete a minimum of four (4) hours of ride-along per month, in addition to other duties.

341.7.2 SERVICE REQUESTS WHEN NO CHAPLAIN IS ON DUTY

- (a) Approval for call-in of a chaplain must come from the Watch Commander/Supervisor, Division Lieutenant, or the Chief of Police.
- (b) Once the need has been established, the Watch Commander/Supervisor or dispatcher shall place a call to the next available Chaplain on the rotation list maintained in the Dispatch Area until a chaplain has been located.
- (c) In the event an officer, or other Department employee, and/or his/her family desire counsel with the chaplain, the employee should place a telephone request to the chaplain of his/her choice in order to secure an appointment.

Limited English Proficiency Services

342.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

342.1.1 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 Banning 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).

342.2 POLICY

It is the policy of the Banning 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.

342.3 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

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- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

342.4 TYPES OF LEP ASSISTANCE AVAILABLE

Banning 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.

342.5 WRITTEN FORMS AND GUIDELINES

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP Coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

342.6 AUDIO RECORDINGS

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

342.7 QUALIFIED BILINGUAL MEMBERS

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

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When a qualified bilingual member from this department is not available, personnel from other City departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

342.8 AUTHORIZED INTERPRETERS

Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the LEP Coordinator which demonstrates that their skills and abilities include:

- (a) The competence and ability to communicate information accurately in both English and in the target language.
- (b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this department and of any particularized vocabulary or phraseology used by the LEP individual.
- (c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (d) Knowledge of the ethical issues involved when acting as a language conduit.

342.8.1 SOURCES OF AUTHORIZED INTERPRETERS

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this department or personnel from other City departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

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342.8.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

342.9 CONTACT AND REPORTING

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

342.10 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The Banning Police Department will take reasonable steps and will work with the Department of Human Resources to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

342.10.1 EMERGENCY CALLS TO 9-1-1

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in Dispatch, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

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Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

342.11 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

342.12 INVESTIGATIVE FIELD INTERVIEWS

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably 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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342.13 CUSTODIAL INTERROGATIONS

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

342.14 BOOKINGS

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

342.15 COMPLAINTS

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the LEP Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

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.

342.16 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

342.17 TRAINING

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

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The Training Sergeant shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Training Sergeant shall maintain records of all LEP training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

342.17.1 TRAINING FOR AUTHORIZED INTERPRETERS

All members on the authorized interpreter list must successfully complete prescribed interpreter training. To complete interpreter training successfully, an interpreter must demonstrate proficiency in and ability to communicate information accurately in both English and in the target language, demonstrate knowledge in both languages of any specialized terms or phraseology, and understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

Members on the authorized interpreter list must receive refresher training annually or they will be removed from the authorized interpreter list. This annual training should include language skills competency (including specialized terminology) and ethical considerations.

The Training Sergeant shall be responsible for coordinating the annual refresher training and will maintain a record of all training the interpreters have received.

Animal Complaints

343.1 PURPOSE AND SCOPE

It is the policy of the Banning Police Department to respond to all animal complaints and incidents in a timely and appropriate manner consistent with current laws.

343.2 DEPARTMENT RESPONSIBILITIES

- (a) During Animal Control work hours all complaints of animal related incidents will be referred to Animal Control.
- (b) Animal Control work hours are: 8:00 A.M. to 4:00 P.M. daily, except holidays.
- (c) Public Shelter Hours for the shelter are 8:00 A.M. to 6:00 P.M. Tuesday - Friday, 8:00 A.M. to 5:00 P.M. Saturday, closed Sundays, Mondays and holidays.
- (d) After hours, complaints on animal related incidents will be handled as follows:
 - 1. Emergencies will be referred to an off-duty Animal Control Officer.
 - 2. Emergencies are defined as injured animals, dog bites, vicious animals endangering humans, etc.
 - 3. Supervisor approval is required prior to emergency call-out off-duty Animal Control Officer.

343.3 ANIMAL CONTROL RESPONSIBILITIES

- (a) Enforcement of California laws and Banning Municipal Code.
- (b) Taking custody of stray and injured animals.
- (c) Investigation of-animal noises, bites, and cruelty complaints.
- (d) Although Animal Control has primary responsibility for animal cruelty investigations, the Banning Police Department will assist in these investigations where appropriate.
- (e) Banning Police Officers will respond to animal bite complaints when Animal Control is unavailable, and gather information necessary for completion of the bite investigation report.
- (f) If an animal involved in the animal bite is not currently vaccinated for rabies, the animal will be quarantined at the Banning Animal Shelter or home of the dog owner.
- (g) Riverside County is a designated rabies county. Animal bites involving non-domesticated animals shall be reported to the Public Health Services, Riverside County. Public Health Services will advise what procedures shall be followed.

343.4 BANNING POLICE DEPARTMENT PROCEDURES

- (a) Animal complaints received during Animal Control work hours will be referred to Animal Control.

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- (b) Banning Police Department dispatcher takes the information from the complainant and verbally relays the information to Animal Control Officer.
- (c) After handling the complaint, the Animal Control will provide the dispatcher with a disposition of the incident.
 - 1. The Banning Police Department may not respond to an animal complaint when the Animal Control Officer is on duty. Some exceptions could include:
 - (a) Dog bites;
 - (b) Animal cruelty; and
 - (c) Urgent situations (vicious animals, rabid animals, etc.) where an Animal Control Officer is not immediately available.
- (d) Animal complaints received after Animal Control working hours. During hours when Animal Control is off-duty or is otherwise unavailable, the following animal related calls for service will be handled by the appropriate on-duty officer.
 - (a) On routine complaints, an Animal Control Incident will be prepared and the information will be forwarded to the Animal Control to handle on its next work day. Emergency complaints will be referred to an off-duty ACO via a Banning Police Department Supervisor.
 - (b) 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 should 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.
 - (c) Injured Domesticated Animals When any injured domesticated animal is brought to the attention of a member of this agency, all reasonable attempts shall be made to contact the owner or responsible handler. When the owner or responsible handler cannot be located and the animal is not an immediate danger to the community, it shall be taken to a doctor of veterinary medicine as described below (Penal Code § 597.1(b)).

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- (a) During normal business hours, the animal should be taken to an authorized veterinary care clinic.
 - (b) If after normal business hours, the animal should be taken to the authorized Veterinary Emergency and Critical Care Services Clinic.
 - (c) The only exception to the above is when the animal is an immediate danger to the community or the owner of the animal is identified and takes responsibility for the injured animal.
 - (a) When the need to kill a seriously injured or dangerous animal is necessary, the department Firearms and Qualification Policy shall be followed. The decision to dispose of a seriously injured animal will rest with the on-duty [Watch Commander].
 - (d) Injured wildlife should be referred to the SPCA, Marine Mammal Center or Department of Fish and Game Wildlife as applicable. The SPCA will not pick up common pigeons (red legs), starlings, bats or skunks.
 - (e) When handling dead or injured animals department employees shall attempt to identify and notify the owner of the final disposition of the animal.
 - (f) Each incident shall be documented and, at minimum, include the name of the reporting party and veterinary hospital and/or person to whom the animal is released. If the ACO is off duty, the information will be forwarded for follow-up.
- (d) Reporting Requirements
- (a) A Banning Police Department Crime Report may be required on some animal cruelty cases and on any other criminal offenses involving animals.

343.5 DESTRUCTION OF DANGEROUS ANIMALS

When it becomes necessary to destroy a gravely injured or dangerous animal, it shall be the policy of the Banning Police Department to use the safest and most humane method possible.

343.5.1 BACKGROUND

- (a) Police agencies and Animal Control Units are called upon from time to time to humanely destroy injured or dangerous animals by use of a firearm.
- (b) Many times an injured and/or dangerous animal is encountered in an area where discharge of a firearm would be dangerous to nearby persons and/or property. Thus, shooting of such an animal should occur only as a last resort, pursuant to the provisions of this General Order.

343.5.2 GENERAL CONSIDERATIONS

- (a) In most cases, the officer will utilize small caliber to dispatch the animal.

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- (b) No ammunition other than departmental approved will be used in the dispatching of any injured and/or dangerous animals by any on-duty member of the Banning Police Department.

343.6 PROCEDURES

343.6.1 INITIAL NOTIFICATION - SCENE FOLLOW-UP

- (a) The dispatcher, upon being advised by the field officer at the scene that an animal should be destroyed at the scene, shall immediately notify the on-duty supervisor or the on-call supervisor.
- (b) The on-duty supervisor shall immediately respond to the scene and contact the field officer in charge or responsible for the scene.
- (c) The supervisor shall assess the situation and make the determination regarding the appropriate disposition of the animal. The supervisor may consult an Animal Control Officer and/or animal owner for advice and preferences regarding the disposition of the animal.
- (d) The supervisor shall determine if the animal shall be destroyed by the use of a firearm at the scene or transported to the Banning Police Department Range.

343.6.2 DISPATCHING OF ANIMAL

If the supervisor determines that the animal shall be destroyed by use of a firearm, he/she shall see that the following is carried out:

- (a) Clear the Immediate area of all bystanders
- (b) Determine projectile exit path when necessary
- (c) Position City police units so as to protect against any type of ricochets that may occur,
- (d) Determine the type of weapon and ammunition that shall be used,
- (e) The supervisor, or his/her designee, shall dispatch the animal. If a designee is used, he shall be under the direct supervision of the supervisor and,
- (f) The dispatched animal shall be removed from the scene as soon as possible by the Animal Control Unit, Public Works and/or the officers at the scene. Large animals, such as deer or horses, shall be moved to the shoulder of the road or to another place so as not to create a safety hazard or unsightly scene.
 - 1. Note: If a supervisor is not on duty, the on-call supervisor may designate an on-duty officer to accomplish the above. The on-call supervisor may respond to the scene if he/she feels the situation requires the presence of a supervisor.
- (g) Arrangement with victim to put animals to sleep should be noted.

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- (h) Follow-up Notification - An incident report shall be completed by the initial officer and shall contain a detailed account of the following:
 - 1. Why it was necessary to dispatch the animal by firearm,
 - 2. Type of weapon used,
 - 3. Type of ammunition used,
 - 4. Officer who dispatched the animal,
 - 5. Disposition of animal, and
 - 6. Any other pertinent information that should be a part of the official record.

Communications with Persons with Disabilities

344.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

344.1.1 DEFINITIONS

Definitions related to this policy include:

Auxiliary aids - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

Disability or impairment - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102).

Qualified interpreter - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, translators, sign language interpreters and intermediary interpreters.

344.2 POLICY

It is the policy of the Banning Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The [Department/Office] will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

344.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator shall be appointed by, and directly responsible, to the Patrol Division Commander or the authorized designee.

The responsibilities of the ADA Coordinator shall include, but not be limited to:

- (a) Working with the City ADA coordinator regarding the Banning Police Department's efforts to ensure equal access to services, programs and activities.
- (b) Developing reports, new procedures, or recommending modifications to this policy.

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- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to [department/office] services, programs and activities.
- (d) Ensuring that a list of qualified interpreter services is maintained and available to each Watch Commander and Dispatch Supervisor. The list should include information regarding the following:
 - 1. Contact information
 - 2. Availability
- (e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.
- (f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.
- (g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to [department/office] services, programs and activities.

344.4 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this [department/office] should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

- (a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.
- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).
- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

344.5 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

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Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Banning Police Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

344.6 TYPES OF ASSISTANCE AVAILABLE

Banning Police Department members shall never refuse to assist an individual with disabilities who is requesting assistance. The [Department/Office] will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The [Department/Office] will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept [department/office]-provided auxiliary aids or services or they may choose to provide their own.

[Department/Office]-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

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344.7 AUDIO RECORDINGS AND ENLARGED PRINT

The [Department/Office] may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

344.8 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or investigation involving the disabled individual. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

- (a) Available within a reasonable amount of time but in no event longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and/or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use [department/office]-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

344.9 TTY AND RELAY SERVICES

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The [Department/Office] will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

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344.10 COMMUNITY VOLUNTEERS

Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the [Department/Office] to provide interpreter services.

Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, [department/office] members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

344.11 FAMILY AND FRIENDS

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

344.12 REPORTING

Whenever any member of this [department/office] is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the [Department/Office] or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

344.13 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

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The [Department/Office] recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this [department/office]. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

344.13.1 FIELD RESOURCES

Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

- (a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.
- (b) Exchange of written notes or communications.
- (c) Verbal communication with an individual who can speechread by facing the individual and speaking slowly and clearly.
- (d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.
- (e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

344.14 CUSTODIAL INTERROGATIONS

In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this [department/office] will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

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In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

344.15 ARREST AND BOOKINGS

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use [department/office]-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process, members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

344.16 COMPLAINTS

The [Department/Office] shall ensure that individuals with disabilities who wish to file a complaint regarding members of this [department/office] are able to do so. The [Department/Office] may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the [department/office] ADA Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this [Department/Office].

344.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this [department/office] are important to the ultimate success of more traditional law enforcement duties. This [department/office] will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

344.18 TRAINING

Emergency call-takers shall be trained in the use of TTY equipment protocols for communicating with individuals who are deaf, hard of hearing or who have speech impairments. Such training and information should include: The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers. ASL syntax and accepted abbreviations. Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing

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silent TTY or TDD calls, using proper syntax, abbreviations and protocol when responding to TTY or TDD calls. Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones. Training should be mandatory for all Dispatch members who may have contact with individuals from the public who are deaf, hard of hearing or have impaired speech. Refresher training should occur every six months. Edit Revert Remove Add Sub-section Add Section

ADA Compliance

345.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for equal access to Banning 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.

345.1.1 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/office]'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 Banning 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/office] 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/office] 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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345.2 POLICY

It is the policy of the Banning Police Department that persons with disabilities, including victims, witnesses, suspects, and arrestees, have equal access to services, programs, and activities of the [Department/Office].

The [Department/Office] will not discriminate against or deny any individual access to services, programs, or activities based upon the presence or suspected presence of disabilities.

345.3 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 Banning Police Department's efforts to provide equal access to services, programs, and activities.
 - 1. Maintaining [department/office] compliance with accessibility standards for [department/office] 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/office] facilities to identify access issues.
 - 2. Review of current [department/office] 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/office]'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/office] 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/office] 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/office] 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/office] 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.

345.4 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.

345.4.1 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/Office]. 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/office] 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/office] 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).

345.4.2 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).

345.4.3 SURCHARGES

Surcharges shall not be imposed upon persons with disabilities to cover the costs of providing modifications (28 CFR 35.130(f)).

345.5 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.

345.5.1 TYPES OF ASSISTANCE AVAILABLE

[Department/Office] 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/Office] will not require persons with disabilities to furnish their own assistive device, auxiliary aid, or service as a condition for receiving access to [department/office] services, programs, and activities. The [Department/Office] 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/Office] will not require that persons with disabilities use [department/office]-provided assistive devices, auxiliary aids, and services. [Department/Office]-provided assistive devices, auxiliary aids, and services may include but are not limited to the means described in this policy.

345.5.2 AUDIO RECORDINGS AND ENLARGED PRINT

The [Department/Office] 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.

345.5.3 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.

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- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use [department/office]-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).

345.5.4 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/Office] 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).

345.5.5 COMMUNITY VOLUNTEERS

Where qualified interpreters are unavailable to assist members, [department/office]-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/office] 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.

345.5.6 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).

345.5.7 FIELD ENFORCEMENT CONSIDERATIONS

Due to the unpredictable and varied nature of field enforcement, the [Department/Office] 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/office]. 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,

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should be considered when determining what, if any, resources should be used and whether a qualified interpreter or other service is needed.

345.5.8 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).

345.6 CUSTODIAL INTERROGATIONS

In an effort to ensure that the rights of individuals with disabilities are protected during a custodial interrogation, this [department/office] 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.

345.7 ARREST

If an individual with a communication-related disability is arrested, the arresting officer shall use [department/office]-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.

345.8 WEBSITE ACCESS

The ADA coordinator should work with the appropriate parties to develop online content that is readily accessible to persons with disabilities. [Department/Office] 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/Office] website content should also be made available to persons with disabilities in an alternative format upon request, if reasonably practicable.

345.9 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/Office] 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.

345.10 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/office]'s programs, services, or activities should document the complaint and promptly refer the matter to the ADA coordinator (28 CFR 35.107). The [Department/Office] shall assist persons with disabilities who require assistance to file a complaint regarding members of this [department/office]. The [Department/Office] may provide a qualified interpreter or forms in enlarged print, as appropriate.

345.11 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 Sergeant 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.

345.11.1 CALL-TAKER TRAINING

Emergency call-takers shall be trained in the use of [department/office] 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.

Mandatory Employer Notification

346.1 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.

346.2 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.

346.2.1 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).

346.2.2 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).

346.2.3 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).

346.2.4 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).

346.3 POLICY

The Banning Police Department will meet the reporting requirements of California law to minimize the risks to children and others.

346.4 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).

Biological Samples

347.1 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.

347.2 POLICY

The Banning 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.

347.3 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.

347.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

347.4.1 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.

347.5 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.

347.5.1 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).

347.5.2 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/Office] 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).

347.6 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

347.6.1 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.

347.6.2 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)).

347.6.3 LITIGATION

The Chief of Police or authorized designee should notify the California DOJ's DNA Legal Unit in the event this [department/office] 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.

Publication of Information Regarding Victim of Sex Offenses

348.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the reporting of sex offenses as required by Penal Code § 293. Penal Code § 293 requires:

- (a) "That any employee of a law enforcement agency who personally receives a report from any person, alleging that the person making the report has been the victim of a sex offense shall inform that person that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record, pursuant to § 6254 of the Government Code.
- (b) Any written report of an alleged sex offense shall indicate that the alleged victim has been properly informed pursuant to § (a) and shall memorialize his or her response.
- (c) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections, hearing officers of the parole authority, or other persons or public agencies where authorized or required by law, the address of a person who alleges to be the victim of a sex offense.
- (d) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections, hearing officers of the parole authority, or other persons or public agencies where authorized or required by law, the name of a person who alleges to be a victim of a sex offense, if that person has elected to exercise his or her right pursuant to Penal Code § 293 and § 6254 of the Government Code.
- (e) For the purposes of Penal Code § 293, sex offense means any crime listed in paragraph (2) of Subdivision (f) of § 6254 of the Government Code which is defined in Chapter 1 (commencing with Section 261) or Chapter 5 (commencing with Section 281) of Part 1 of Title 9 of the Penal Code.
- (f) Parole officers of the Department of Corrections and hearing officers of the parole authority shall be entitled to receive information pursuant to subdivisions (c) and (d) only if the person to whom the information pertains alleges that he or she is the victim of a sex offense, the alleged perpetrator of which is a parolee who is alleged to have committed the sex offense while on parole.

348.1.1 NOTICE TO VICTIMS

- (a) Whenever an officer receives a report from any person, alleging that the person making the report has been the victim of a sex offense, the officer shall inform that person that his or her name will become a matter of public record unless he or she

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requests that it not become a matter of public record, pursuant to § 6254 of the Government Code.

- (b) Officers shall complete the "Riverside County Law Enforcement Agencies Confidentiality Advisement Form. (RCLEAA Form 8/18/05).
- (c) This form must be attached to all criminal reports related to the following California Penal Code §§: 220, 261, 261.5, 262, 264, 264.1, 286, 288, 288a, 288.2, 288.5, 289, 422.6, 422.7, 422.75, and 646.9. A separate form shall be completed for each victim.

348.1.2 SUPERVISOR'S RESPONSIBILITY

It shall be the Supervisor's responsibility to ensure that reports requiring a Penal Code Section 293 notification are properly documented.

Range Rules

349.1 PURPOSE AND SCOPE

The purpose of this policy is to help facilitate firearms range safety along with providing protocol for personnel attending or present during firearms training conducted by the Banning Police Department. It is the intent of this policy to provide for a safe environment while conducting firearms training.

349.1.1 PROCEDURE

During any firearms training, Banning Police Department employees shall wear the following protective items while on the firing line:

- Approved eye protection
- Approved hearing protection
- Department issued protective vest

No unauthorized personnel, officer or civilian, will be allowed to be present during firearms training without the expressed permission of the Banning Police Department Administrative Staff. In addition, all persons authorized to be present during firearms training will be required to wear approved safety equipment.

349.2 RANGE STAFF RESPONSIBILITY

The range staff is responsible for firearms safety at the range. Two range staff members should be present during training to facilitate training and maintain safety guidelines. During range operations if any personnel continually violate range rules or safety guidelines, range staff have the authority to remove them from the range. Should range staff find it necessary to have an employee removed from the range, they will immediately contact Police Administration and inform them of the circumstances of the event. In addition, range staff will:

- Ensure all personnel have approved safety equipment
- Firearms and equipment function properly
- Ensure no unauthorized individuals are present during training

349.3 OFFICER RESPONSIBILITY

It will be the responsibility of the individual officer to ensure, when responding to firearms training, they have their department issued protective vest and any additional equipment, as directed.

349.4 GENERAL RANGE SAFETY GUIDELINES

Upon arrival at the range, firearms will be loaded/unloaded, in a safe manner, at the direction of range staff.

All firearms will be considered loaded until physically and visually inspected.

Routine firearms cleaning will not be permitted during firearms training.

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Range Rules

Strict discipline shall be maintained by all personnel while at the range. In addition the following safety guidelines apply:

- Always point the muzzle in a safe direction; never point a firearm at anyone or anything you do not want to shoot.
- Treat every firearm as if it were loaded.
- Keep your finger off the trigger and outside the trigger guard until you are ready to shoot.
- Keep the action open and the gun unloaded until you are ready to use it.
- Before handling any firearm, understand its operation.
- Never rely on any mechanical device for safety.
- Never joke around or engage in horseplay while handling or using firearms.
- If you see unsafe behavior any time when firearms are being handled or used, speak up and take action to correct the unsafe behavior at once.
- At the range, personnel shall obey the commands of the range staff, or any individual calling "cease fire," at once.
- Circumstances may require additional safety rules unique to a particular situation and/or training exercise.

349.5 RANGE RELATED INJURIES

Personnel sustaining any injury (s) at the range shall immediately notify the range staff. Range staff shall immediately notify police administration of the injury and ensure the required forms are completed to document the employee's injury and how it occurred.

Child and Dependent Adult Safety

350.1 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/office] (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.

350.2 POLICY

It is the policy of this [department/office] to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Banning 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.

350.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should

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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.

350.3.1 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.

350.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any

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child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

350.3.3 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

350.3.4 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.

350.4 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).

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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.

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

350.5 TRAINING

The Training Sergeant is responsible to ensure that all personnel of this [department/office] who may be involved in arrests affecting children or dependent adults receive approved POST-approved training on effective safety measures when a parent, guardian or caregiver is arrested (Penal Code § 13517.7).

Service Animals

351.1 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).

351.1.1 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)).

351.2 POLICY

It is the policy of the Banning Police Department to provide equal access to services, programs, and activities of the [Department/Office] to persons with service animals. [Department/Office] 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).

351.3 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/Office] members are expected to treat individuals with service animals with the same courtesy and respect that the Banning 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.

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- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities, or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

351.4 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.

351.5 CONTACT WITH SERVICE ANIMALS

Service animals are not pets. [Department/Office] members should not interfere with a service animal by talking to, petting, or otherwise initiating contact.

351.6 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/office] 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.

351.7 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

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concerned parties. Businesses are required to allow service animals to accompany their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice (DOJ).

CITIZEN VOLUNTEER PROGRAM

352.1 PURPOSE AND SCOPE

It is the policy of this department to use qualified volunteers for specified tasks and duties in order to create efficiencies for the Department and improve services to the community. Volunteers are intended to supplement and support, rather than supplant, sworn officers and civilian personnel. Volunteers can be an important part of any organization and are proven to be a valuable asset to law enforcement agencies. Volunteers help to increase departmental responsiveness, delivery of services and information input, and provide new program opportunities. In addition, volunteers bring new skills and expertise to the Department and prompt new enthusiasm.

352.1.1 DEFINITION OF VOLUNTEER

An individual who performs a service for the Department without promise, expectation, or receipt of compensation for services rendered.

The Citizen Volunteer Program shall be composed of volunteer citizens over the age of 18 years who are willing to become familiar with the area serviced by the Banning Police Department; having no unfavorable criminal records, and an acceptable driving history. Admission to the Citizen Volunteer Program is with the sole discretion of the Chief of Police or his/her designee.

352.1.2 POLICY AND LAW COMPLIANCE

All orders and procedures of the Banning Police Department are applicable to Citizen Volunteer members unless by their nature they do not apply. Each person who takes the oath of the Citizen Volunteer thereby agrees to be bound by, and to adhere to, these orders and procedures.

Citizen Volunteers shall become familiar with the provisions of these Rules and regulations, as well as policies and procedures, and shall conform to and abide by them. They shall observe Federal, State and Local laws and ordinances and shall render their services to the City of Banning with courage, discretion, and fidelity.

All Citizen Volunteers shall abide by all Federal, State, County and City laws. Volunteer members who violate any law(s) may be subject to termination from the Citizen Volunteer Program. Citizen Volunteers must maintain professional and courteous relations with the public while performing his/her duties.

352.2 SELECTION AND APPOINTMENT OF CITIZEN VOLUNTEER

The Banning Police Department shall endeavor to recruit and appoint to the Citizen Volunteer Program only those applicants who meet the high ethical, morale, and professional standards set forth by this department.

352.2.1 PROCEDURE

All prospective Volunteers shall complete the volunteer application form designed to obtain a minimum of necessary basic history concerning the person seeking a position. All person(s) involved in the applicant process will be particularly careful to respect the confidentiality of the

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information provided by the applicant. No information so provided will be made available to other patrol members or other persons not entitled by law to have access to such information. Each Volunteer applicant shall complete a Personal History Waiver form. This document is used, when appropriate, to assist the department in making a determination as to the overall fitness of the applicant. The Department Volunteer Coordinator or designee(s) shall conduct a face-to-face interview with an applicant under consideration to determine if they are a viable candidate for the volunteer program. Viable candidates shall have a documented background investigation completed, which shall include, but not be limited to, the following:

- (a) Traffic and criminal background check. Fingerprints shall be obtained from all applicants and processed through the California Criminal Information Index.
- (b) Employment
- (c) References
- (d) Credit check

A polygraph exam may be required of each applicant depending on the type of assignment.

352.2.2 APPOINTMENT

Service as a Citizen Volunteer with the Department shall begin with an official notice of acceptance or appointment to a volunteer position. Notice may only be given by an authorized representative of the Department, normally the Department Volunteer Coordinator, with approval by the Chief of Police or his/her designee.

No volunteer should begin any assignment until they have been officially accepted for that position and completed all required screening and paperwork. At the time of final acceptance, each volunteer shall complete all required enrollment paperwork and have their photograph taken for identification purposes. All volunteers shall receive a copy of the department's policy and procedure manual and shall be required to sign a volunteer agreement.

352.2.3 PROBATION

New members of the Citizen Volunteer Program will be on probationary status for six months during which time their service with the program will be reviewed. At the conclusion of the probationary period, the Volunteer will be considered a regular member of the Program, however at no time do employment rights vest with member of the Program.

352.2.4 RECRUITMENT

Citizen Volunteers should be recruited on a continuous and ongoing basis consistent with department policy on equal opportunity nondiscriminatory employment. A primary qualification for participation in the application process should be an interest in, and an ability to assist the Department in serving the public.

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352.3 GOOD STANDING REQUIREMENTS

A Citizen Volunteer Program member is considered in good standing when the requirements outlined below are on an on-going basis:

- (a) Attend all monthly meetings, special meetings, scheduled events and assignments and be punctual in their attendance.
- (b) Complete monthly assigned training.
- (c) Volunteer a minimum of sixteen (16) hours of service per month.
- (d) Maintain a valid California Driver's License.
- (e) Adherence to the Banning Police Department policy manual.

Nothing shall preclude the Chief of Police or Volunteer Liaison from establishing additional requirements and needs for Citizen Volunteer Program members to remain in good standing. Any Citizen Volunteer Program member found not to be in good standing may be dropped from the Program at any time.

352.4 PROGRAM MANAGEMENT

352.4.1 DEPARTMENT VOLUNTEER COORDINATOR

The Department Volunteer Coordinator shall be a Department staff member appointed by the Administration Division Commander, with approval by the Chief of Police. The function of the Department Volunteer Coordinator is to provide a central coordinating point for effective volunteer management within the Department, and to direct and assist staff and volunteer efforts to jointly provide more productive services. The Department Volunteer Coordinator should work with other Department staff on an ongoing basis to assist in the development and implementation of volunteer-staffed positions. The Department Volunteer Coordinator, or his/her designee(s), shall be responsible for the following:

- (a) Recruiting, selecting and training qualified volunteers for various positions.
- (b) Facilitating the implementation of new volunteer activities and assignments.
- (c) Maintaining records for each volunteer.
- (d) Tracking and evaluating the contribution of volunteers.
- (e) Maintaining a record of volunteer schedules and work hours.
- (f) Completion and dissemination as appropriate of all necessary paperwork and information.
- (g) Planning periodic recognition events.
- (h) Maintaining liaison with other volunteer-utilizing programs in the community and assisting in community-wide efforts to recognize and promote volunteering.

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- (i) Working with the Citizen Volunteer Coordinator to accomplish the previously listed responsibilities.

352.4.2 CITIZEN VOLUNTEER COORDINATOR

The Citizen Volunteer Coordinator shall be a citizen volunteer appointed by the Administration Division Commander, with the Chief's approval. The function of the Citizen Volunteer Coordinator is honorary in nature and is to assist in the management of the volunteer program as determined by the Chief of Police, Administration Division Commander, and Department Volunteer Coordinator.

352.4.3 VOLUNTEER DESIGNATION

No rank will be established in the Citizen Volunteer Program. Team Leaders will be designated for communication purposes.

Levels & Requirements €“ Each Member will hold a designation referred to as a level that will indicate their skills, experience and abilities to perform various duties. There are Levels I, II & III.

A Member must complete a training period under the instruction of an authorized Volunteer Training Officer (VTO) with the program prior to patrolling with another Member. The number of hours required for each new Member may vary but will be a minimum of 24 hours. During this training period, Members will be considered "Level III" and are not allowed to patrol except with a VTO.

Upon successful completion of the Level III training and upon recommendation of the Department and Citizen coordinators, a member may be elevated to "Level II" status and will be qualified to patrol with any other Level I or Level II Member.

A Member may be classified as "Level I" upon approval of the Department and Citizen Volunteer Coordinators. Level I status is generally reserved for VTO's or those Members chosen by the Volunteer Coordinators to be Level I because of their superior skills and exemplary contributions to the Citizen Volunteer Program

352.4.4 CHAIN-OF-COMMAND

Members shall respect and follow the Chain of Command as it applies within the organization and the Police Department in general.

352.5 VOLUNTEER DUTIES AND ASSIGNMENTS

Citizen Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Department. Specific assignments may be established by the Department Volunteer Coordinator or his/her designee which may include but are not limited to Quartermaster, Secretary, Historian, Field Training Officer, Office Maintenance (Forms/First Aid) and Vehicle/Radio Maintenance. Specific duties and assignments may vary and are situational to support the Police Department and the General Public. All orders, duties and assignments must be legal, ethical and within all policies of the City of Banning. Every effort will be made to utilize special experience, training or talent which a member possesses so as to enhance the effectiveness of the Program.

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Every Citizen Volunteer shall execute and complete any and all duties to which they have been assigned to the best of their ability. Citizen Volunteers are only allowed in the police station while conducting official volunteer business.

352.5.1 PATROL

Patrol of a specific area will be assigned by the Volunteer Coordinators or the Watch Commander.

352.5.2 DUAL PATROL (TWO VOLUNTEER CAR)

Two Citizen Volunteer members are required for any patrol assignments. Specific details or assignments may be completed by one member with the specific permission of the Department Volunteer Coordinator. The Department Volunteer Coordinator may deny permission for patrol duty to any member at his discretion.

352.5.3 CANCELLATION

If unable to report for a scheduled shift, Citizen Volunteers will make every effort to advise the Department Volunteer Coordinator, Citizen Volunteer Coordinator or their designee(s). The member should also make every attempt to contact his patrol partner so that other arrangements can be made to avoid the loss of the patrol shift. Generally speaking, it shall be the responsibility of the scheduled member to seek a replacement for the shift.

352.5.4 CRIME REPORTS

Volunteers shall immediately report suspicious and unusual circumstances, particularly those appearing to be criminal in nature and life threatening. If immediate radio contact is impossible, all pertinent information will be recorded and passed by telephone as soon as possible. **UNDER NO CIRCUMSTANCES WILL CITIZEN VOLUNTEER MEMBERS BECOME INVOLVED IN ANY ENFORCEMENT ACTION.** However, members have an obligation to defend themselves and other members of the Department.

352.6 TRAINING

Volunteers will be provided with an orientation program to acquaint them with the Department, personnel, policies and procedures that have a direct impact on their work assignment. Volunteers should receive position-specific training to ensure they have adequate knowledge and skills to complete tasks required by the position and should receive periodic ongoing training as deemed appropriate by their supervisor or the Department Volunteer Coordinator. All Citizen Volunteer Program members will complete the required basic volunteer academy course of instruction, as determined by the Chief of Police or the Administration Division Commander, prior to performing any duties described within this manual unless they are under direct supervision of a regular department employee or a Volunteer Training Officer. All Volunteer Members must complete a training period under the instruction of an authorized Volunteer Training Officer (VTO) prior to patrolling with another volunteer in a marked volunteer vehicle. The prescribed training periods must be completed before any special assignments within the Department will be considered. The number of FTV hours required for each new Volunteer Member will be determined by the Department Volunteer Coordinator, usually a minimum of 24 hours.

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Training should reinforce to volunteers that they may not intentionally represent themselves as, or by omission infer that they are sworn officers or other full-time members of the Department. They shall always represent themselves as volunteers. Certain periodic training will be required for safety purposes. Periodic training may be conducted at the mandatory monthly Citizen Volunteer Program meetings and/or at special training meetings as designated by the Administration Division Commander or Department Volunteer Coordinator.

352.7 FITNESS FOR DUTY

No volunteer shall report to work or be on-duty when his/her judgment or physical condition has been impaired by alcohol, medication, other substances, illness or injury. Volunteers shall report to their supervisor any changes in status that may affect their ability to fulfill their duties. This includes, but is not limited to, the following:

- (a) Driver license
- (b) Medical condition
- (c) Arrests
- (d) Criminal investigations

Prescribed medications that cause drowsiness, or in any way hamper the Volunteer members safe performance of duty will not be used prior to, or while in, a duty status. Citizen Volunteers who must use prescribed medication on a twenty-four (24) hour basis, which may affect their ability to perform as a Citizen Volunteer, shall notify the Department Volunteer Coordinator and shall be placed on in-active status until their medical condition improves. No member of the Volunteer patrol will consume alcoholic beverages for a period of not less than eight hours prior to reporting for duty. At no time shall a Citizen Volunteer drink an alcoholic beverage when on duty or in uniform. Citizen Volunteers shall not respond to emergency call-outs if they have consumed an alcoholic beverage with the prior eight hour period to the call-out.

All volunteers shall adhere to the guidelines set forth by this department regarding drug and alcohol use.

352.8 UNIFORMS AND DRESS CODE

As representatives of the Department, volunteers are responsible for presenting a professional image to the community. Volunteers shall dress appropriately for the conditions and performance of their duties.

Volunteers shall conform to department-approved dress consistent with their duty assignment. Uniforms authorized for volunteers should be readily distinguishable from those worn by sworn officers. The uniform or identifiable parts of the uniform shall not be worn while off-duty except volunteers may choose to wear the uniform while in transit to or from official department assignments or functions provided an outer garment is worn over the uniform shirt so as not to bring attention to the volunteer while he/she is off duty.

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Each Citizen Volunteer Program member will be issued a basic standard uniform just prior to graduating from the Citizen Volunteer Program Academy. Optional uniforms may be purchased at the Citizen Volunteer Program member's own expense, provided it complies with guidelines outlined below and conforms to the Banning Police Department's policy manual. Any Banning Police Department shoulder patches attached to any clothing that was privately purchased by a Citizen Volunteer member, remains the property of the Banning Police Department and will be returned upon the member's separation from the program.

Uniforms shall be tailored to fit the wearer in a comfortable, neat appearing and proper manner.

Each member shall ensure that a family member(s) is/are made aware that all issued uniforms as discussed in this section remains the property of the Banning Police Department and must be returned to the Department in the event the Citizen Volunteer Program member is unable to do so through serious illness, injury or death.

352.8.1 CLASS B UNIFORM

The basic standard issue or Class B uniform will consist of the following:

- (a) Black long leg trousers
- (b) Silver Tan 5.11 polo shirt with cloth embroidered badge. (Can be worn all year or as directed by the Volunteer Coordinator)
- (c) Plain white, crew neck style t-shirt.
- (d) Black ball cap emblazoned "Banning Police".
- (e) Black shoes and socks.

352.8.2 OPTIONAL EQUIPMENT

Uniforms and equipment may include:

- (a) Ballistic Vest
- (b) Key holder, flashlight holder and H.T. holder.
- (c) San Brown belt.
- (d) Jacket (Wind breaker or department approved jacket).

352.8.3 SHOULDER PATCHES

The Citizen Volunteer Program and Banning Police patches shall be worn on both shoulders of the jacket.

The Citizen Volunteer Program shoulder patch (also known as a "Rocker") shall be sewn onto the sleeve, one quarter inch (1/4) below and centered on the shoulder seam. The Banning Police Department shoulder patch shall be sewn directly below, and touching the Citizen Volunteer Program patch.

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352.8.4 LEATHER GEAR

All visible parts of leather gear shall be finished black. Leather articles shall be stamped with a basket weave design. The color of all visible parts of metal fasteners will be silver.

352.8.5 WEARING THE UNIFORM

Citizen Volunteers shall wear the uniform:

- (a) To regular meetings, unless otherwise directed by the Volunteer Coordinators
- (b) When assigned to regular Volunteer Patrol duties.
- (c) When participating in Patrol Ride Along activity.
- (d) When performing assigned duties which necessitate the uniform as a means of identification.

352.8.6 USE OF BADGE OR UNIFORM

Unauthorized wearing or display of the Citizen Volunteer Program Patrol badge, identification card, uniform, or any portion thereof, will subject the member to disciplinary action, including termination.

352.8.7 IDENTIFICATION CARD

Identification cards shall be issued to each Citizen Volunteer for the purpose of identifying the holder as a member of the Citizen Volunteer Program while on duty. When working in the police department, the Volunteer shall be in uniform. When visiting the police department, the Volunteer shall wear either their identification card or a visitors badge on their outer clothing. The card shall not be used for any other purpose. The card shall remain the property of the Banning Police Department and must be surrendered upon termination of membership.

352.8.8 HAIR GROOMING AND HYGIENE

Members shall practice proper personal hygiene at all times.

Hair shall be combed, clean, and trimmed in a neat manner. Mustaches are permitted as long as they are neatly trimmed.

352.9 RULES OF CONDUCT

352.9.1 REPORT OF ARRESTS

Any Citizen Volunteer who is arrested for any crime shall submit to the Department Volunteer Coordinator, in writing, ALL information relating to the details of the incident. This shall be done no later than one (1) day after the incident or as soon as possible. Any Citizen Volunteer who is arrested for any offense by any law enforcement agency shall be considered to be on immediate suspension from the Citizen Volunteer Program until further notice. Citizen Volunteers shall not operate department vehicles during their suspension. Any arrest for a vehicular related crime shall result in the loss of driving privileges until such time the Citizen Volunteer is reinstated to the Program and specific permission is granted to allow the Citizen Volunteer to operate department vehicles.

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Any Citizen Volunteer, whose driving privileges are restricted, suspended or re-evaluated by the Department of Motor Vehicles, will notify the Volunteer Coordinator in writing, within one (1) day or as soon as possible. Any restrictions, suspensions or re-evaluations shall result in the loss of driving privileges until such time the Citizen Volunteer is reinstated to the Program.

352.9.2 DISOBEDIENCE OF AN ORDER OR DIRECTIVE

Citizen Volunteers shall obey legal and ethical orders and directives, whether verbal or written.

352.9.3 RESPECT FOR DEPARTMENT STAFF AND VOLUNTEER MEMBERS

All members shall engage in proper conduct and shall show proper attitude toward Department Staff and other members of the Citizen Volunteer Program. Volunteers shall always maintain a courteous demeanor toward all members of other law enforcement agencies.

Citizen Volunteers shall treat the public with a professional, helpful attitude at all times. They shall maintain a courteous demeanor when dealing with all members of the community.

352.9.4 FALSE REPORTS

No Citizen Volunteer member shall make any accusations, allegations, or statement, knowing it to be untrue.

352.10 SAFETY RULES

352.10.1 WEAPONS

No form of weapon will be carried by Citizen Volunteer Members.

352.10.2 HAZARDOUS SITUATIONS

NEVER enter a hazardous situation. If a situation demands action, contact dispatch, via the radio, and request an officer's assistance.

352.10.3 OPEN BUILDINGS

NEVER enter an open residence or building during a vacation house or business check. Immediately back away and call for assistance.

352.10.4 ENFORCEMENT

DO NOT, under any circumstances, take any physical enforcement actions.

352.10.5 SELF-DEFENSE

In all cases, Citizen Volunteers have a right to use self-defense to protect themselves or other members of the department. In the event a Citizen Volunteer must use self-defense he/she shall notify the on-duty Watch Commander, as soon as possible, for appropriate documentation purposes. The Citizen Volunteer shall also prepare a written report, as soon as possible, regarding the use of self-defense and forward it to the Department Volunteer Coordinator. The Department Volunteer Coordinator will notify the Administration Division Commander upon receiving such notice of a use of Self Defense.

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352.10.6 PURSUIT

Citizen Volunteer members shall not pursue suspects.

352.10.7 PHYSICAL CONFRONTATION

Citizen Volunteer members shall not become involved in a physical confrontation with a criminal suspect, unless such action is necessary to assist an officer and is at the officer's request.

352.10.8 CRIMES IN PROGRESS

Citizen Volunteers shall not attempt to prevent crimes in progress. Citizen Volunteers shall notify dispatch immediately of possible crimes. The Citizen Volunteer shall maintain a safe distance and maintain a visual observation until an officer arrives.

352.10.9 IN-PROGRESS CALLS FOR SERVICE

Volunteers shall avoid the area of in-progress calls including, but not limited:

- (a) Domestic Violence
- (b) Disturbance calls (415 PC)
- (c) Assaults
- (d) Calls involving weapons
- (e) Pursuits

352.11 USE OF DEPARTMENT EQUIPMENT

Citizen Volunteers may use department equipment with the permission of a department supervisor. Equipment shall be used in the manner in which it was intended and shall not be misused. Under no circumstances shall department equipment be taken home.

All uniforms and equipment issued by the Citizen Volunteer Program or the Banning Police Department shall remain the property of the Banning Police Department and must be returned upon termination of membership.

Members shall not maliciously damage any equipment or property. (Note: Damage or loss of Department equipment may subject the member responsible to make proper restitution to the City of Banning).

352.12 VOLUNTEER PATROL VEHICLES

Volunteers assigned to duties or other assignments that require the use of a vehicle must first complete the following:

- (a) Verification that the volunteer possesses a valid California Driver License.
- (b) Verification that the volunteer carries current vehicle insurance.

The Volunteer Coordinator should insure that all volunteers receive safety briefing updates and license and insurance verification at least once a year. When operating a Department vehicle, volunteers shall obey all rules of the road, including seat belt requirements. Smoking is prohibited

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in all Department vehicles. Volunteers should not operate a marked black and white patrol car, absent the approval of the Department Volunteer Coordinator and/or Watch Commander, unless there is a prominently placed sign indicating that it is out of service and are not authorized to operate a Department vehicle Code-3.

352.12.1 SECURITY

Patrol vehicles will be locked at all times when not in use.

352.12.2 PURPOSE

Volunteer patrol vehicles will not be used for any purpose other than normally assigned duties. The Department Volunteer Coordinator and/or Watch Commander may designate the use of a patrol vehicle for a special duty assignment.

352.12.3 PASSENGERS

No Citizen Volunteer member shall permit unauthorized person(s) to ride in or operate any department vehicles. Any transportation, convoy or escort (10-14) shall be approved by the Watch Commander prior to transporting the person to another destination. If approved, dispatch is to be notified, informing dispatch if any of the occupants are female and the beginning and ending mileage for the trip.

352.12.4 END OF SHIFT

Citizen Volunteer members will re-fuel, properly park and lock patrol vehicles at the end of their shift in the designated area for that vehicle(s). The patrol vehicle(s) will be left with a minimum of three quarters ($\frac{3}{4}$) of a tank of fuel.

352.12.5 ACCIDENTS

All traffic accidents involving a patrol vehicle must be reported to dispatch immediately by radio. If radio contact is not possible, telephone contact will be made without delay. A patrol vehicle will not be moved from the scene of the accident until authorized by the responding officer.

Within 24 hours of any accident involving a City vehicle, a report must be made to the Human Resources/Risk Management Department including details regarding injuries to volunteers, employees or citizens and any damages to vehicles.

352.12.6 REPAIRS

Needed repairs will be reported by completing a "Vehicle Repair Request" form. The form shall be completed with copies to the Department Volunteer Coordinator and the Citizen Volunteer Coordinator. The Citizen Volunteer completing the form will arrange for the vehicle to be dropped off at City Yard's. The copy of the repair request will be left on the dashboard of the vehicle.

All Department vehicles require scheduled servicing. If the Volunteer Patrol vehicle is due for service, it is to be left at City Yards as soon as the service date arrives. It is not to be driven on patrol until the service is completed by City Yards.

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352.12.7 PERSONAL VEHICLES

Personal vehicles shall not be used by Citizen Volunteers while performing their assigned volunteer duties.

352.12.8 OPERATION

Members of the Citizen Volunteer Program will operate patrol units in a safe and legal manner. All traffic regulations, including parking regulations, shall be strictly observed.

352.12.9 LIGHT BAR OPERATION

Citizen Volunteers will not operate the overhead light bar of the patrol unit while responding to or from a call or traffic collision scene. The light bar will only be activated while the patrol unit is stationary and only when a caution warning is necessary for public safety.

352.12.10 CITY LIMITS

At no time shall the patrol unit be driven outside the city limits without the expressed permission of the Watch Commander or Volunteer Coordinators. The only exception is the west side of Highland Springs Avenue, which is located in the City of Beaumont, or the Riverside County area on the Bench.

352.13 REPORTS AND RECORDS

352.13.1 MEMBERSHIP ROSTER

The Department and Citizen Volunteer Coordinators shall keep and maintain a complete and current roster of the members. The roster shall include the name, address, all telephone numbers, and status of each volunteer. Each Citizen Volunteer will be assigned a "Victor Number" which will serve as their radio identification number. All revisions to the roster shall include the date that such revision was made.

352.13.2 NOTIFICATION OF CHANGE OF STATUS

Each Citizen Volunteer member shall be responsible for promptly reporting any error or change in their status to the Volunteer Coordinators in writing. This is to include changes in addresses and phone numbers.

352.13.3 DISTRIBUTION OF ROSTERS

Copies of the Volunteer Member Roster will be furnished to the Chief of Police, Lieutenants, Sergeants, Volunteer Coordinators, and Dispatch.

352.13.4 PATROL LOG

Citizen Volunteers conducting patrol shall maintain a patrol log as authorized by the Department Volunteer Coordinator. Patrol logs will be submitted to the Volunteer Patrol Coordinator or other designated member at the end of the members patrol shift. Logs will indicate the activities accomplished during the patrol shift. Unusual or extraordinary activities should be reported on a separate sheet of paper, if there is not an enough room on the patrol log and shall be attached to the patrol log.

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352.13.5 NOTEBOOKS

Each Citizen Volunteer shall maintain a Patrol Notebook. The Volunteer Patrol Coordinator or other designated member shall provide a General Notebook for each patrol vehicle, which shall contain all reference and reporting material needed for the member to perform their duties. A personal notebook should be maintained by each Citizen Volunteer member containing reference material and any specific patrol information needed for the performance of their duties.

352.13.6 VOLUNTEER TIME SHEET

The Time Sheet is provided for members to record their service time in order to account for a total number of hours that members are utilized for any given activity or period of time. The Time Sheet is mandatory. All hours committed to working at the Police Department need to be accounted for.

The Time Sheet shall include the following information: Date worked, Function performed, Location, Time arrived and Time departed. Hours will be totaled and rounded out without minutes.

Each Citizen Volunteer will complete their own individual time sheet. All time sheets will be turned into the Citizen Volunteer Coordinator prior to the 25th of each month. The Citizen Volunteer Coordinator or designee will total the hours worked and report the final total to the Department Volunteer Coordinator, via e-mail prior to the end of each month.

352.14 OFF-DUTY INCIDENTS

Any off-duty incident involving a Citizen Volunteer member, where they identify themselves to any person as affiliated to the Banning Police Department and/or the Citizen Volunteer Program, will require the member to notify the on-duty Watch Commander and the Department Volunteer Coordinator as soon as possible.

Any situation or incident that involves a Citizen Volunteer member that could reflect negatively on the Banning Police Department or the Citizen Volunteer Program shall be brought to the attention of the Department Volunteer Coordinator who will notify the Administration Division Commander, as soon as possible.

352.15 COURT APPEARANCE/TESTIMONY

352.15.1 SUBPOENA SERVICE

Citizen Volunteer member may be subpoenaed for a court appearance. Should this occur every effort will be made to place the member on stand-by or on-call.

352.15.2 COURT APPEARANCE

When on stand-by, Citizen Volunteer members are expected to be prepared to be present in court at the time which appears on the subpoena. They are also expected to arrive in a timely manner when notified by telephone during on-call status.

352.15.3 AVAILABILITY

All Citizen Volunteer members placed on stand-by or on-call will remain as such for the day of the subpoena unless relieved by the District Attorney's office.

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352.15.4 RELIEF

No member is relieved from his/her stand-by or on-call status except as outlined as above.

352.15.5 NOTIFICATION

Any Citizen Volunteer member required in court shall be notified via telephone or subpoena to appear. If a Citizen Volunteer member must leave their residence or place of business, they shall contact the District Attorney's office and provide a phone number to which they can be contacted.

352.15.6 REPORTING

Upon arrival at the Court, all Citizen Volunteer members are responsible for reporting to the appropriate Court Room or the District Attorney's office. If the District Attorney is unavailable in the courtroom, they are to contact the court deputy and advise them of their location.

352.15.7 UNIFORM

Citizen Volunteers shall make all court appearances in either their volunteer uniform or civilian business attire.

352.16 REQUESTS FOR CITIZEN VOLUNTEER PERSONNEL

352.16.1 REQUEST FOR SERVICE

Requests for Citizen Volunteer personnel assistance are received from two main sources, internal and external:

- (a) Internal request for assistance may originate from any command within the Banning Police Department. Requests are to be made in memo form and submitted to the Volunteer Coordinators.
- (b) External requests are generally routed through the Chief of Police, once granted, will route the request to the Volunteer Coordinators, with a copy to the Administration Division Commander.

352.16.2 ASSIGNMENT

Internal requests for Citizens Volunteer assistance will be reviewed by the Volunteer coordinators. The Volunteer coordinators will designate a Special Events Coordinator and assign that designee to solicit Citizen Volunteer members to sign-up for the detail.

External requests are at the discretion of the Chief of Police. If the request is approved, the Volunteer Coordinators will follow the internal request process.

352.16.3 EMERGENCY ASSIGNMENTS

Citizen Volunteer Members may be called to duty or placed on stand-by alert, via the Watch Commander, when an urgent or emergency situation requires or may require additional manpower on short notice. The Department Volunteer Coordinator will designate two Citizen Volunteer members as emergency contacts for Dispatch to call in the event of an incident.

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Both emergency contacts will have the ability to call out other Citizen Volunteers to stand-by or respond to the request of the Watch Commander. Both emergency contacts should remain in contact with each other as much as possible and rotate the responsibility should one become unavailable.

The emergency contacts will be responsible for taking the information from Dispatch as to what type of incident is occurring, location of the incident, where to contact the Watch Commander and how many volunteers are needed.

352.17 CONFIDENTIALITY

With appropriate security clearance, volunteers may have access to confidential information such as criminal histories or investigative files. Unless otherwise directed by a supervisor or departmental policy, all information shall be considered confidential. Only that information specifically identified and approved by authorized personnel shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by departmental policy and supervisory personnel.

Each volunteer will be required to sign a nondisclosure agreement before being given an assignment with the Department. Subsequent unauthorized disclosure of any confidential information, verbally, in writing or by any other means, by the volunteer is grounds for immediate dismissal and possible criminal prosecution.

Volunteers shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to a newspaper or other periodical, release or divulge any information concerning the activities of the Department, or maintain that they represent the Department in such matters without permission from the Chief of Police or his/her designee.

352.18 RADIO AND MDT USAGE

Volunteers should successfully complete CLETS and radio procedures training prior to using the police radio or MDT and comply with all related provisions. The Department Volunteer Coordinator should ensure that radio and CLETS training is provided for volunteers whenever necessary.

352.19 DISCIPLINARY PROCEDURES/TERMINATION

A volunteer may be removed from the volunteer program at the discretion of the Chief of Police. Volunteers shall have no property interests in their continued appointment. However, if a volunteer is removed for alleged misconduct, the volunteer will be afforded an opportunity solely to clear his/her name through a liberty interest hearing which shall be limited to a single appearance before the Chief of Police or authorized designee.

Volunteers may resign from volunteer service with the Department at any time. It is requested that volunteers who intend to resign provide advance notice of their departure and a reason for their decision.

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352.19.1 REPRIMANDS

The Department Volunteer Coordinator, having become aware of any minor infraction of any City or Police Department policy may orally reprimand the Volunteer Member, with no further action necessary. Said oral reprimand will be documented in the Volunteer Members personnel file. If a number of oral reprimands have been issued, written warnings will be issued.

352.19.2 REPORTING

Any person having become aware of an incident or activity of a Volunteer Member may prepare a written report on the matter and forward it to the Department Volunteer Coordinator for review.

- (a) The Department Volunteer Coordinator shall review the report and submit a copy to the Administration Division Commander.
- (b) The Administration Division Commander will review the information and determine what if any, steps will be taken involving the incident/activity. All serious incidents/activities will be forwarded to the Chief of Police for further review before any further steps are taken.

352.19.3 SUSPENSION

When an incident on the part of a Volunteer member is of a nature warranting such action, the Volunteer Member may be immediately suspended from the Volunteer Program by the Department Volunteer Coordinator and/or any regular sworn officer of the Banning Police Department.

Any member of the Volunteer Program who is arrested for any offense by any law enforcement agency shall consider themselves under immediate suspension from the Volunteer Program until a full investigation can be conducted. The member shall remain on suspension until notified otherwise.

The Department Volunteer Coordinator will be immediately advised of this action and the circumstances of the event involving the member, if the member is suspended by a regular sworn officer. The regular sworn officer, who has knowledge of the event, shall be required to write a written memorandum to the Chief of Police, via the Administration Division Commander, detailing the incident. In the event the same sworn officer is involved in the same incident, the on-duty Watch Commander shall document the event to the Chief of Police.

352.19.4 DISMISSAL

When the incident on the part of the Volunteer member is deemed to be grounds for dismissal, the member may be removed from the Program and will be required to turn-in all issued equipment. This includes any equipment that the Member may have in their possession at the time of their dismissal, which was not issued to them, but allowed to have in their possession at that point and time.

- (a) The decision on whether a Volunteer Member should be terminated shall rest with the Chief of Police or his/her designee.

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- (b) Volunteer Members are considered "at will" personnel and enjoy no administrative or appeal process.

352.20 EXIT INTERVIEWS

Exit interviews, where possible, should be conducted with volunteers who are leaving their positions. The interview should ascertain why the volunteer is leaving the position and solicit the volunteer's suggestions on improving the position. When appropriate, the interview should also include a discussion on the possibility of involvement in some other capacity with the Department.

352.21 EVALUATIONS

An evaluation of the overall volunteer program should be conducted on an annual basis by the Department Volunteer Coordinator. Regular evaluations should be conducted with volunteers to ensure the best use of human resources available, to ensure personnel problems can be identified and dealt with promptly and fairly, and to ensure optimum satisfaction on the part of volunteers.

Off-Duty Law Enforcement Actions

353.1 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 Banning Police Department with respect to taking law enforcement action while off-duty.

353.2 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.

353.3 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 any 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.

353.4 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.

353.4.1 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 Banning Police Department officer until acknowledged. Official identification should also be displayed.

353.4.2 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.

353.4.3 NON-SWORN RESPONSIBILITIES

Non-sworn personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

353.4.4 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.

353.5 REPORTING

Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, shall notify the Watch Commander as soon as practicable. The Watch Commander shall determine whether a report should be filed by the employee.

Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

[Department/Office] Use of Social Media

354.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the [Department/Office] is consistent with the [department/office] mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by [department/office] members (see the Employee Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this [department/office] (see the Investigation and Prosecution Policy).

354.1.1 DEFINITIONS

Definitions related to this policy include:

Social media - Any of a wide array of internet-based tools and platforms that allow for the sharing of information, such as the [department/office] website or social networking services

354.2 POLICY

The Banning Police Department may use social media as a method of effectively informing the public about [department/office] services, issues, investigations and other relevant events.

[Department/Office] members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all.

354.3 AUTHORIZED USERS

Only members authorized by the Chief of Police or the authorized designee may utilize social media on behalf of the [Department/Office]. Authorized members shall use only [department/office]-approved equipment during the normal course of duties to post and monitor [department/office]-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Chief of Police may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by a supervisor prior to posting.

Requests to post information over [department/office] social media by members who are not authorized to post should be made through the member's chain of command.

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[Department/Office] Use of Social Media

354.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the [department/office] mission and that conforms to all [department/office] policies regarding the release of information may be posted.

Examples of appropriate content include:

- (a) Announcements.
- (b) Tips and information related to crime prevention.
- (c) Investigative requests for information.
- (d) Requests that ask the community to engage in projects that are relevant to the [department/office] mission.
- (e) Real-time safety information that is related to in-progress crimes, geographical warnings, or disaster information.
- (f) Traffic information.
- (g) Media releases.
- (h) Recruitment of personnel.

Authorized members shall review all content prior to posting to ensure that the posting does not contain prohibited content.

354.4.1 INCIDENT-SPECIFIC USE

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Press Information Officer or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of the Incident Commander.

354.5 PROHIBITED CONTENT

Content that is prohibited from posting includes, but is not limited to:

- (a) Content that is abusive, discriminatory, inflammatory or sexually explicit.
- (b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.
- (c) Any information that could compromise an ongoing investigation.
- (d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Banning Police Department or its members.
- (e) Any information that could compromise the safety and security of [department/office] operations, members of the [Department/Office], victims, suspects or the public.
- (f) Any content posted for personal use.
- (g) Any content that has not been properly authorized by this policy or a supervisor.

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[Department/Office] Use of Social Media

Any member who becomes aware of content on this [department/office]'s social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

354.5.1 PUBLIC POSTING PROHIBITED

[Department/Office] social media sites shall be designed and maintained to prevent posting of content by the public.

The [Department/Office] may provide a method for members of the public to contact department members directly.

354.6 MONITORING CONTENT

The Chief of Police will appoint a supervisor to review, at least annually, the use of [department/office] social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content, and the resolution of any issues. The same supervisor should review the [department/office] social media on a quarterly basis for any posted prohibited content and remove the same upon discovery.

354.7 RETENTION OF RECORDS

The Administration Division Lieutenant should work with the Custodian of Records to establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules.

354.8 TRAINING

Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on [department/office] sites.

Gun Violence Restraining Orders

355.1 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).

355.1.1 DEFINITIONS

Definitions related to this policy include:

Gun violence restraining order - Civil restraining order prohibiting a named person from controlling, owning, purchasing, possessing, receiving, or otherwise having custody of any firearms or ammunition, including an ammunition magazine (Penal Code § 18100).

355.2 POLICY

It is the policy of the Banning 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/Office] pursuant to such orders.

355.3 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).

355.3.1 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.
- (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.

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Officers should consider obtaining a mental health evaluation if the encounter involves a situation where there is a reasonable cause to believe that the person poses an immediate and present danger of causing personal injury to themselves or another person by having custody or control of a firearm or expresses intent to obtain a firearm (see the Mental Illness Commitments Policy) (Penal Code § 18108).

355.4 SERVICE OF GUN VIOLENCE RESTRAINING ORDERS

An officer serving any gun violence restraining order shall:

- (a) Verbally ask the subject of the order if he/she has any firearm, ammunition, or magazine in his/her possession or under his/her custody or control (Penal Code § 18160).
- (b) Request that any firearms or ammunition be immediately surrendered and issue a receipt for the surrendered items (Penal Code § 18120).
- (c) Take into temporary custody any firearm or other deadly weapon discovered in plain view or pursuant to consent or other lawful search (Penal Code § 18250).
- (d) Inform the restrained person of any scheduled hearing regarding the order (Penal Code § 18160).
- (e) Transmit the original proof of service form to the issuing court as soon as practicable but within one business day (Penal Code § 18115).
- (f) As soon as practicable, but by the end of his/her shift, submit proof of service to the Records Supervisor for prompt entry into the California Restraining and Protective Order System (Penal Code § 18115).

The officer should also inform the restrained person that he/she is required, within 24 hours, to surrender to a law enforcement agency any other firearms and ammunition he/she owns or that are in his/her custody or control or sell them to a firearms dealer. This notification should be documented.

All firearms and ammunition collected shall be handled and booked in accordance with the Property and Evidence Policy.

355.4.1 TEMPORARY EMERGENCY GUN VIOLENCE RESTRAINING ORDERS

An officer requesting a temporary emergency gun violence restraining order shall (Penal Code § 18140):

- (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 Supervisor for filing with the court and appropriate databases.

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355.5 SEARCH WARRANTS

If a person who has been served with a gun violence restraining order refuses to surrender any firearm or ammunition, the officer should consider whether to seek a search warrant. If a search warrant is to be obtained, the preparation and service of the search warrant shall be done in accordance with the Warrant Service Policy. Additionally, (Penal Code § 1542.5):

- (a) The officer serving the warrant shall take custody of any firearm or ammunition that is controlled, possessed or owned by the person who is the subject of the gun violence restraining order, including any discovered pursuant to the warrant, a consensual search or other lawful search.
- (b) If the location being searched is jointly occupied and the firearm or ammunition is owned by a person other than the restrained person, the firearm or ammunition should not be seized if the following conditions are met:
 - 1. The firearm or ammunition can be stored in a manner that does not allow the restrained person to have control or access.
 - 2. There is no evidence that the owner unlawfully possesses the firearm or ammunition.
- (c) If a locked gun safe belonging to someone other than the subject of a gun violence restraining order is discovered, the officer shall not search the contents of the safe unless the owner consents or there is a valid search warrant for the safe. Any search of the safe must be done in the owner's presence.

355.6 RECORDS SUPERVISOR RESPONSIBILITIES

The Records Supervisor is responsible for ensuring:

- (a) Proof of service of any gun violence restraining order served by an officer or received from the clerk of the court is entered in the computer database system for protective and restraining orders maintained by the Department of Justice within one business day of service if served by an officer, or within one business day of receipt of proof of service if served by a person other than a law enforcement officer (Penal Code § 18115).
- (b) 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).
- (d) Copies of receipts of surrendered firearms or ammunition issued by other agencies for gun violence restraining orders issued by the [Department/Office] 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).

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355.7 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.

355.8 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).

355.9 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/office] 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.
 - 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.

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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 Supervisor for recording in appropriate databases and required notice to the court, as applicable.
 3. Preparing or obtaining a search warrant prior to attempting service of an order, when appropriate (Penal Code § 18108).
 4. Seizure procedures of firearms and ammunition at the time of issuance of a temporary emergency gun violence restraining order.
 5. Verification procedures for the removal of firearms and ammunition from the subject of a gun violence restraining order (Penal Code § 18108).
- (d) Coordinating with the Training Sergeant to provide officers who may be involved in petitioning for or serving orders with training on such orders. Training should include determining when a petition is appropriate, the process for seeking an order, and the service of such orders.
- (e) Reviewing each petition and any associated court documents for an order prepared by members, for compliance with this policy, [department/office] 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/Office].
1. Procedures should include preparing and providing a receipt identifying all prohibited items to the person surrendering the items.
- (g) Coordinating review of notices of court hearings and providing notice to the appropriate officer of the hearing date and the responsibility to appear and participate in the evidence presentation process (Penal Code § 18108).
- (h) Coordinating with the Training Sergeant 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).

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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).

355.10 RENEWAL OF GUN VIOLENCE RESTRAINING ORDERS

The Detective Bureau supervisor is responsible for the review of a gun violence restraining order (including temporary or ex parte orders) obtained by the [Department/Office] to determine if renewal should be requested within the time prescribed by law (Penal Code § 18190).

355.11 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).

355.12 TRAINING

The Training Sergeant should ensure that members receive periodic training on the requirements of this policy (Penal Code § 18108).

Native American Graves Protection and Repatriation

356.1 PURPOSE AND SCOPE

This policy is intended to ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

356.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

Funerary objects - Objects that, as part of the death rite or ceremony of a Native American culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains. Funerary objects are either associated funerary objects or unassociated funerary objects.

Associated funerary objects are any funerary objects related to removed human remains, where the location of the human remains is known. This includes objects that were made exclusively for burial purposes or to contain human remains, regardless of the physical location or existence of any related human remains.

Unassociated funerary objects are any other funerary objects that are identified by a preponderance of the evidence such as:

- Related to human remains but the remains were not removed, or the location of the remains is unknown.
- Related to specific individuals or families.
- Removed from specific burial sites with Native American cultural affiliation.
- Removed from an area where such burial sites are known to have existed, but the site no longer exists.

Native American human remains - Any physical part of the body of a Native American individual.

Objects of cultural patrimony - Objects having ongoing historical, traditional, or cultural importance that is central to the Native American group or culture itself and, therefore, cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

Sacred objects - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

356.2 POLICY

It is the policy of the Banning Police Department that the protection of Native American human remains, funerary objects, associated funerary objects, unassociated funerary objects, sacred

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Native American Graves Protection and Repatriation

objects, or objects of cultural patrimony is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption, or complicated custody transfer processes.

356.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, unassociated funerary objects, sacred objects, or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.5).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.5):

- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land/Private land - [Medical Examiner/JOP], when appropriate (Health and Safety Code § 7050.5)
- Tribal land - Responsible Indian tribal official

356.4 EVIDENCE AND PROPERTY

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.7).

Community Relations

357.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for community relationship-building.

Additional guidance on community relations and outreach is provided in other policies, including the:

- Hate Crimes Policy.
- Limited English Proficiency Services Policy.
- Communications with Persons with Disabilities Policy.
- Chaplains Policy.
- Patrol Function Policy.
- Suspicious Activity Reporting Policy.

357.2 POLICY

It is the policy of the Banning Police Department to promote positive relationships between members of the [department/office] and the community by treating community members with dignity and respect and engaging them in public safety strategy development and relationship-building activities, and by making relevant policy and operations information available to the community in a transparent manner.

357.3 MEMBER RESPONSIBILITIES

Officers should, as time and circumstances reasonably permit:

- (a) Make casual and consensual contacts with community members to promote positive community relationships (see the Detentions and Photographing Detainees Policy).
- (b) Become reasonably familiar with the schools, businesses and community groups in their assigned jurisdictional areas.
- (c) Work with community members and the [department/office] community relations coordinator to identify issues and solve problems related to community relations and public safety.
- (d) Conduct periodic foot patrols of their assigned areas to facilitate interaction with community members. Officers carrying out foot patrols should notify an appropriate supervisor and Dispatch of their status (i.e., on foot patrol) and location before beginning and upon completion of the foot patrol. They should also periodically inform Dispatch of their location and status during the foot patrol.

357.4 COMMUNITY RELATIONS COORDINATOR

The Chief of Police or the authorized designee should designate a member of the [Department/Office] to serve as the community relations coordinator. He/she should report directly to the Chief of Police or authorized designee and is responsible for:

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- (a) Obtaining [department/office]-approved training related to his/her responsibilities.
- (b) Responding to requests from [department/office] members and the community for assistance in identifying issues and solving problems related to community relations and public safety.
- (c) Organizing surveys to measure the condition of the [department/office]'s relationship with the community.
- (d) Working with community groups, [department/office] members and other community resources to:
 - 1. Identify and solve public safety problems within the community.
 - 2. Organize programs and activities that help build positive relationships between [department/office] members and the community and provide community members with an improved understanding of [department/office] operations.
- (e) Working with the Patrol Division Commander to develop patrol deployment plans that allow officers the time to participate in community engagement and problem-solving activities.
- (f) Recognizing [department/office] and community members for exceptional work or performance in community relations efforts.
- (g) Attending City council and other community meetings to obtain information on community relations needs.
- (h) Assisting with the [department/office]'s response to events that may affect community relations, such as an incident where the conduct of a [department/office] member is called into public question.
- (i) Informing the Chief of Police and others of developments and needs related to the furtherance of the [department/office]'s community relations goals, as appropriate.

357.5 SURVEYS

The community relations coordinator should arrange for a survey of community members and [department/office] members to be conducted at least annually to assess the condition of the relationship between the [Department/Office] and the community. Survey questions should be designed to evaluate perceptions of the following:

- (a) Overall performance of the [Department/Office]
- (b) Overall competence of [department/office] members
- (c) Attitude and behavior of [department/office] members
- (d) Level of community trust in the [Department/Office]
- (e) Safety, security or other concerns

A written summary of the compiled results of the survey should be provided to the Chief of Police.

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357.6 COMMUNITY AND YOUTH ACTIVITIES AND PROGRAMS

The community relations coordinator should organize or assist with programs and activities that create opportunities for [department/office] members and community members, especially youth, to interact in a positive setting. Examples of such programs and events include:

- (a) [Department/Office]-sponsored athletic programs (e.g., baseball, basketball, soccer, bowling).
- (b) Police-community get-togethers (e.g., cookouts, meals, charity events).
- (c) Youth leadership and life skills mentoring.
- (d) School resource officer/Drug Abuse Resistance Education (D.A.R.E.®) programs.
- (e) Neighborhood Watch and crime prevention programs.

357.7 INFORMATION SHARING

The community relations coordinator should work with the Press Information Officer to develop methods and procedures for the convenient sharing of information (e.g., major incident notifications, significant changes in [department/office] operations, comments, feedback, positive events) between the [Department/Office] and community members. Examples of information-sharing methods include:

- (a) Community meetings.
- (b) Social media (see the [Department/Office] Use of Social Media Policy).
- (c) [Department/Office] website postings.

Information should be regularly refreshed, to inform and engage community members continuously.

357.8 LAW ENFORCEMENT OPERATIONS EDUCATION

The community relations coordinator should develop methods to educate community members on general law enforcement operations so they may understand the work that officers do to keep the community safe. Examples of educational methods include:

- (a) Development and distribution of informational cards/flyers.
- (b) [Department/Office] website postings.
- (c) Presentations to driver education classes.
- (d) Instruction in schools.
- (e) [Department/Office] ride-alongs (see the Ride-Along Policy).
- (f) Scenario/Simulation exercises with community member participation.
- (g) Youth internships at the [Department/Office].
- (h) Citizen academies.

Instructional information should include direction on how community members should interact with the police during enforcement or investigative contacts and how community members can

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make a complaint to the [department/office] regarding alleged misconduct or inappropriate job performance by [department/office] members.

357.9 SAFETY AND OTHER CONSIDERATIONS

[Department/Office] members responsible for community relations activities should consider the safety of the community participants and, as much as reasonably practicable, not allow them to be present in any location or situation that would jeopardize their safety.

[Department/Office] members in charge of community relations events should ensure that participating community members have completed waiver forms before participation, if appropriate. A parent or guardian must complete the waiver form if the participating community member has not reached 18 years of age.

Community members are subject to a criminal history check before approval for participation in certain activities, such as citizen academies.

357.10 COMMUNITY ADVISORY COMMITTEE

The Chief of Police should establish a committee of volunteers consisting of community members, community leaders and other community stakeholders (e.g., representatives from schools, churches, businesses, social service organizations). The makeup of the committee should reflect the demographics of the community as much as practicable.

The committee should convene regularly to:

- (a) Provide a public forum for gathering information about public safety concerns in the community.
- (b) Work with the [Department/Office] to develop strategies to solve public safety problems.
- (c) Generate plans for improving the relationship between the [Department/Office] and the community.
- (d) Participate in community outreach to solicit input from community members, including youth from the community.

The Training Sergeant should arrange for initial and ongoing training for committee members on topics relevant to their responsibilities.

The Chief of Police may include the committee in the evaluation and development of [department/office] policies and procedures and may ask them to review certain personnel complaints for the purpose of providing recommendations regarding supervisory, training or other issues as appropriate.

357.10.1 LEGAL CONSIDERATIONS

The Chief of Police and the community relations coordinator should work with the City Attorney as appropriate to ensure the committee complies with any legal requirements such as public notices, records maintenance and any other associated obligations or procedures.

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357.11 TRANSPARENCY

The [Department/Office] should periodically publish statistical data and analysis regarding the [department/office]'s operations. The reports should not contain the names of officers, suspects or case numbers. The community relations coordinator should work with the community advisory committee to identify information that may increase transparency regarding [department/office] operations.

357.12 TRAINING

Subject to available resources, members should receive training related to this policy, including training on topics such as:

- (a) Effective social interaction and communication skills.
- (b) Cultural, racial and ethnic diversity and relations.
- (c) Building community partnerships.
- (d) Community policing and problem-solving principles.
- (e) Enforcement actions and their effects on community relations.

Where practicable and appropriate, community members, especially those with relevant expertise, should be involved in the training to provide input from a community perspective.

Chapter 4 - Patrol Operations

Patrol Function

400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the patrol function and address intraorganizational cooperation and information sharing.

400.2 INFORMATION SHARING

To the extent feasible, all information relevant to the mission of the [Department/Office] 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 [briefing]s and to attend [briefing]s of other divisions or specialized units.

Additionally, information should be shared with outside agencies and the public in conformance with [department/office] policies and applicable laws. Members are encouraged to share information with other units and divisions.

400.3 CROWDS, EVENTS AND GATHERINGS

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action.

Generally, officers should consider seeking compliance through advisements and warnings for minor violations and should reserve greater enforcement options for more serious violations or when voluntary compliance with the law is not achieved.

Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws, such as Penal Code 602.1 (obstructing or intimidating business operators), when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

400.4 POLICY

The Banning 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/office] members.

400.5 FUNCTION

Patrol will generally be conducted by uniformed officers in clearly marked law enforcement vehicles in assigned jurisdictional areas of Banning. The function of patrol is to respond to calls

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for assistance and reports of criminal activity, act as a deterrent to crime, enforce state and local laws, identify community needs, provide support and assistance to the community and respond to emergencies.

Patrol services include, but are not limited to:

- (a) Responding to emergency calls for service.
- (b) Apprehending criminal offenders.
- (c) Providing mutual aid and assistance to other agencies for emergency and law enforcement-related activities.
- (d) Preventing criminal acts, traffic violations and collisions, maintaining public order and discovering hazardous situations or conditions.
- (e) Responding to reports of criminal and non-criminal acts.
- (f) Responding to routine calls for service, such as public assistance or public safety.
- (g) Carrying out crime prevention activities such as residential inspections, business inspections and community presentations.
- (h) Carrying out community oriented policing and problem-solving activities including the application of resources to improve or resolve specific problems or situations and contacting or assisting members of the public in a positive way.
- (i) Directing and controlling traffic.

Bias-Based Policing

401.1 PURPOSE AND SCOPE

This policy provides guidance to [department/office] members that affirms the Banning 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/office]'s relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

401.1.1 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).

401.2 POLICY

The Banning 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/office] to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

401.3 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.

401.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

- (a) In compiling personal information about a person's religious belief, practice, affiliation, national origin or ethnicity.

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- (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.

401.4 MEMBER RESPONSIBILITIES

Every member of this [department/office] 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.

401.4.1 REASON FOR CONTACT

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved officer should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

401.4.2 DISCLOSURE AND DOCUMENTATION OF TRAFFIC OR PEDESTRIAN STOP

An officer conducting a traffic or pedestrian stop shall state the reason for the stop prior to questioning the individual related to a criminal investigation or traffic violation unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including but not limited to cases of terrorism or kidnapping (Vehicle Code § 2806.5).

Officers shall document the reason for the stop on any citation or report (Vehicle Code § 2806.5).

401.4.3 REPORTING TRAFFIC STOPS

Each time an officer makes a traffic stop, the officer shall report any information required in the Traffic Function and Responsibility Policy.

401.4.4 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 Banning Police Department is the primary agency, the Banning Police Department officer shall collect the data elements and prepare the stop data report (11 CCR 999.227).

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The stop data report should be completed by the end of the officer's shift or as soon as practicable (11 CCR 999.227).

401.5 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.
 - (a) Supervisors should document these discussions in the prescribed manner.
- (b) Supervisors should periodically review Mobile Audio/Video (MAV) recordings, portable audio/video recordings, body-worn camera (BWC) media, Mobile Data Terminal (MDT) data, and any other available resource used to document contact between officers and the public to ensure compliance with the policy.
 - (a) Supervisors should document these periodic reviews.
 - (b) Recordings or data that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.
- (c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- (d) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this [department/office] who discloses information concerning bias-based policing.

401.6 TRAINING

Training on fair and objective policing and review of this policy shall be conducted annually and include:

- (a) Explicit and implicit biases.
- (b) Avoiding improper profiling.

401.6.1 ADDITIONAL STATE REQUIREMENTS

Training should be conducted as directed by the Training Section.

- (a) All sworn members of this [department/office] 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/office] are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.
- (c) Each sworn member of this [department/office] who received initial bias-based policing training will thereafter be required to complete an approved POST refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity, and cultural trends (Penal Code § 13519.4(i)).

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401.7 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Professional Standards Unit Manager shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and provided to the Records Supervisor for required reporting to the DOJ (Penal Code § 13012; Penal Code § 13020). See the Records Bureau Policy.

Supervisors should ensure that data stop reports are provided to the Records Supervisor for required annual reporting to the DOJ (Government Code § 12525.5) (See Records Bureau Policy).

Traffic Stop Procedure

402.1 PURPOSE AND SCOPE

To establish policy and procedure guidelines for the advisement and clearing of all traffic stops made by officers of the Banning Police Department.

402.2 POLICY

It is department policy that all traffic stops made by sworn members of the department be documented as to date, time and location, and disposition of the stop.

402.3 DEFINITION

A traffic stop is an action taken by a Sworn member of this department, while on duty in an authorized emergency vehicle that results in the lawful detention of a motorist.

402.4 PROCEDURES

- When an officer makes a traffic stop, the officer will advise the Public Safety Dispatcher (PSD) that the stop is being made. The officer will do this by either voice, via a police radio, or by typing the information into the unit's mobile data terminal (when installed). Information to be provided by the officer should include the location of the stop and the license plate of the vehicle. A record of the traffic stop will be made into the Computer Aided Dispatch System (CAD).
- When the officer completes the traffic stop, the officer will advise the PSD that the traffic stop is clear by transmitting the reason and disposition for the stop. The officer will do this by either voice, via the police radio, or by typing the same information into the unit's mobile data terminal (when installed).

Briefing Training

403.1 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 General Orders or changes in General Orders
- (d) Reviewing recent incidents for training purposes
- (e) Providing training on a variety of subjects

403.2 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.

403.3 DURATION

The pre-shift briefing should be completed in an expeditious manner in order to clear officers to begin their patrol duties. Any training conducted that prolongs briefing should be documented, including the topic covered and the duration.

Crime and Disaster Scene Integrity

404.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

404.2 POLICY

It is the policy of the Banning 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.

404.3 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.

404.4 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.

404.5 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.

404.5.1 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.

404.6 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).

Ride-Along Policy

405.1 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.

405.1.1 ELIGIBILITY

The Banning Police Department Ride-Along Program is offered to residents, police and dispatch applicants, 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

405.1.2 AVAILABILITY

The Ride-along Program is available each day of the week, with certain exceptions established by the on-duty Watch Commander. Ride-alongs may occur at any time of the day or night with exceptions made by the Chief of Police, Captain, Lieutenant, or the on-duty Watch Commander.

405.2 PROCEDURE TO REQUEST A RIDE-ALONG

Generally, ride-along requests will be scheduled by the on duty Watch Commander or the Watch Commander responsible for the time or shift when the ride-along is to occur. The participant will complete a ride-along waiver form and a computerized background check. 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.

A Watch Commander or his/her representative will schedule a date, based on availability. The completed waiver will be submitted to Division Lieutenant with the Watch Commander Log for filing.

If the ride-along is denied after the request has been made, a representative of the Police Department will contact the applicant and advise him/her of the denial.

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Ride-Along Policy

405.2.1 PROGRAM REQUIREMENTS

Once approved, civilian ride-alongs will be allowed to ride no more than once every six months. An exception would apply to the following: Cadets, Explorers, RSVP, Chaplains, Reserves, police applicants, and all others with approval of the Watch Commander.

An effort will be made to ensure that no more than one citizen will participate in a ride-along during any given time period. Normally, no more than one ride-along will be allowed in the officer's vehicle at a given time.

Ride-along requirements for police cadets are covered in the Police Cadets Policy.

405.2.2 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.

405.2.3 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.

405.2.4 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 Banning Police Department) (CLETS Policies, Practices and Procedures Manual § 1.6.1.F.2.).

405.3 OFFICER'S RESPONSIBILITY

The officer shall advise the dispatcher that a ride-along is present in the vehicle before going into service. Officers shall consider the safety of the ride-along at all times. Officers should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher will be advised of the situation and as soon as practical have another police unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

The Watch Commander is responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, the yellow form shall be returned to the Watch Commander with any comments which may be offered by the officer.

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405.4 CONTROL OF RIDE-ALONG

The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit their participation. These instructions should include:

- (a) The ride-along will follow the directions of the officer
- (b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment
- (c) The ride-along may terminate the ride at any time and the officer may return the observer to their home or to the station if the ride-along interferes with the performance of the officer's duties
- (d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety
- (e) Officers will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen
- (f) Under no circumstance shall a civilian ride along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person

Hazardous Material Response

406.1 PURPOSE AND SCOPE

Exposure to hazardous materials presents potential harm to [department/office] 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/office].

406.1.1 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.

406.2 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. (Identification can be determined by placard, driver's manifest, or statements from the person transporting).
- (b) Notify the fire department.
- (c) Provide first-aid for injured parties if it can be done safely and without contamination.
- (d) Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.
- (e) Notify the local health authority. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 105215).
- (f) Notify the Department of Toxic Substances Control. This is mandatory when an officer comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety Code § 79355).

406.3 REPORTING EXPOSURE

[Department/Office] 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

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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.

406.3.1 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/Office] will be obtained through the fire department.

Hostage and Barricade Incidents

407.1 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.

407.1.1 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.

407.2 POLICY

It is the policy of the Banning 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.

407.3 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/office]-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.

407.3.1 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.

407.4 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.

407.4.1 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/Office], 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.

407.4.2 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.

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- (g) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (h) Coordinate pursuit or surveillance vehicles and control of travel routes.
- (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/Office], such as command officers and the [PIO].
- (m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

407.5 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 Unit] ([CRU]) response if appropriate and apprising the [CRU] Commander of the circumstances. In addition, the following options should be considered:

- (a) Ensure injured persons are evacuated and treated by medical personnel.
 - (b) Ensure the completion of necessary first responder responsibilities or assignments.
 - (c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.
 - (d) Establish a command post location as resources and circumstances permit.
 - (e) Designate assistants who can help with intelligence information and documentation of the incident.
 - (f) If it is practicable to do so, arrange for video documentation of the operation.
 - (g) Consider contacting utility and communication providers 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/Office] 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

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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.

- (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/office] 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.

407.6 [CRU] RESPONSIBILITIES

The Incident Commander will decide, with input from the [CRU] Commander, whether to deploy the [CRU] during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the [CRU] Commander or the authorized designee will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and evacuation, media access and support for the [CRU]. The Incident Commander and the [CRU] Commander or the authorized designee shall maintain communications at all times.

407.7 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.

Response to Bomb Calls

408.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Banning 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.

408.2 POLICY

It is the policy of the Banning Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

408.3 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.

408.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

408.4.1 BANNING POLICE DEPARTMENT FACILITY

If the bomb threat is against the Banning 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.

408.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of the Banning 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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408.4.3 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.

408.5 FOUND DEVICE

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

- (a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.
- (b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.
- (c) Personnel should not transmit on any equipment that is capable of producing radio frequency energy within the evacuation area around the suspected device. This includes the following:
 1. Two-way radios
 2. Cell phones
 3. Other personal communication devices
- (d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.
- (e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.
- (f) A safe access route should be provided for support personnel and equipment.
- (g) Search the area for secondary devices as appropriate and based upon available resources.
- (h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.
- (i) Promptly relay available information to the Watch Commander including:
 1. The time of discovery.
 2. The exact location of the device.
 3. A full description of the device (e.g., size, shape, markings, construction).
 4. The anticipated danger zone and perimeter.

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5. The areas to be evacuated or cleared.

408.6 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.

408.6.1 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.

408.6.2 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

408.6.3 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.

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408.6.4 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.

408.7 PRIVATE FACILITY OR PROPERTY

When a member of this department receives notification of a bomb threat at a location in the City of Banning, 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.

408.7.1 ASSISTANCE

The Watch Commander should be notified when police assistance is requested. The Watch Commander will make the decision whether the Department will render assistance and at what level. Information and circumstances that indicate a reasonably apparent, imminent threat to the safety of either the facility or the public may require a more active approach, including police control over the facility.

Should the Watch Commander determine that the Department will assist or control such an incident, he/she will determine:

- (a) The appropriate level of assistance.
- (b) The plan for assistance.
- (c) Whether to evacuate and/or search the facility.
- (d) Whether to involve facility staff in the search or evacuation of the building.

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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.

Mental Illness Commitments

409.1 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).

409.2 POLICY

It is the policy of the Banning Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

409.3 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

409.3.1 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.

409.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:

- (a) Available information that might assist in determining the cause and nature of the person's action or stated intentions.

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- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques.
- (d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

Officers should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

409.4.1 5150 COMMITMENT WALKAWAYS

When officers are assigned to respond and handle a Welfare and Institutions Code § 5150 walkaway the following steps will be taken:

- (a) Responding officers shall contact the reporting party and obtain the 5150 commitment's name, D.O.B., description, last known location and/or direction of travel, mental status, and what agency was responsible for the initial 5150 commitment.
- (b) Assigned officers shall attempt to locate the subject by conducting an area search, starting where the subject was last seen. If the subject resides in the City of Banning, officers shall check the residence to see if the subject returned home. If the subject resides out of the City, dispatch shall contact the responsible law enforcement agency and request them to check the residence to see if the subject returned home.
- (c) If the subject is not located after a reasonable search, the primary officer assigned to the call shall at minimum complete an APR to be disseminated to law enforcement agencies in the area indicating at minimum the subject's name, D.O.B., last known location, direction of travel, possible destination, physical and clothing descriptions, mental status, and last known place of residence. If the original 5150 report was taken by another agency dispatch shall contact that agency to notify them the 5150 commitment has walked away from the facility where they were left.
- (d) Before closing the call, the primary officer will make a log note under the appropriate incident number documenting the circumstances of the walkaway to include the subject's name, D.O.B., physical and clothing description, mental status, and last known place of residence. Additionally, the primary officer shall indicate in the notes that an area check was completed, an APR was sent out, and if applicable what agencies were contacted and made aware of the subject's status.
- (e) When a 5150 commitment walkaway is located, after an APR was sent out, dispatch shall send out an APR cancellation and document in the notes of the original incident where the subject was located and what agency located them.
- (f) If at any time during this process someone elects to report the subject as a missing person, the officer shall take appropriate actions pursuant to the Missing Persons and Report Preparation Policies.

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409.4.2 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).

409.5 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.

409.6 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for a 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

409.7 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.

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409.7.1 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).

409.8 CRIMINAL OFFENSES

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a warning or a Notice to Appear as appropriate.

When an individual who may qualify for a 5150 commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

- (a) Arrest the individual when there is probable cause to do so.
- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.
- (c) Facilitate the individual's transfer to jail.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this [department/office] to regain custody of the individual, [department/office] resources (e.g., posting a guard) and other relevant factors in making this decision.

409.9 FIREARMS AND OTHER WEAPONS

Whenever a person is taken into custody for a 5150 commitment, the handling officers should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institutions Code § 8100. Officers should consider whether it is appropriate and

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consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A search warrant may also be needed before searching for or seizing weapons

The handling officers shall issue a receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Officers shall advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)) (see Property and Evidence Policy).

409.9.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS

Whenever the handling officer has cause to believe that the future return of any confiscated weapon might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Detective Bureau, 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/Office] 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/Office] 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.

409.10 TRAINING

This [department/office] will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, 5150 commitments and crisis intervention.

Cite and Release Policy

410.1 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.

410.2 POLICY

It is the policy of the Banning 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/Office]'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.

410.3 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.

410.3.1 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.

410.3.2 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.

410.4 NON-RELEASE

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410.4.1 DISQUALIFYING OFFENSES

An adult arrested on any of the following disqualifying charges shall not be released on citation and shall be transported to the appropriate detention facility or held for court or bail after booking (Penal Code § 1270.1):

- (a) Misdemeanor domestic battery (Penal Code § 243(e)(1))
- (b) Felony domestic battery (Penal Code § 273.5)
- (c) Serious or violent felonies (Penal Code § 1270.1(a)(1))
- (d) Felony intimidation of witnesses and victims (Penal Code § 136.1)
- (e) 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)

410.4.2 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/Office] 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.
 - 1. 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.

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- (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:
 - 1. Previous failure to appear is on record
 - 2. The person lacks ties to the area, such as a residence, job, or family
 - 3. 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 Bureau.

410.5 MISDEMEANOR WARRANTS

An adult arrested on a misdemeanor warrant may be released, subject to Watch Commander approval, unless any of the following conditions exist:

- (a) The misdemeanor cited in the warrant involves violence.
- (b) The misdemeanor cited in the warrant involves a firearm.
- (c) The misdemeanor cited in the warrant involves resisting arrest.
- (d) The misdemeanor cited in the warrant involves giving false information to a peace officer.
- (e) The person arrested is a danger to themselves or others due to intoxication or being under the influence of drugs or narcotics.
- (f) The person requires medical examination or medical care or was otherwise unable to care for their own safety.
- (g) The person has other ineligible charges pending against themselves.
- (h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person.
- (i) The person refuses to sign the notice to appear.
- (j) The person cannot provide satisfactory evidence of personal identification.

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- (k) The warrant of arrest indicates that the person is not eligible to be released on a notice to appear.

Release under this section shall be done in accordance with the provisions of this policy.

410.6 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 Banning City codes

All other misdemeanor violations for juveniles shall be documented with a case number and appropriate paperwork and referred to the Records Bureau for filing and dissemination to the appropriate agencies.

410.7 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.

Disturbance at Public Meetings

411.1 PURPOSE AND SCOPE

It is the policy of the Banning Police Department to assist the Mayor, City Manager, Commission Chairpersons, and City Department Heads to remove and/or arrest any person(s) at public meetings.

411.2 VIOLATIONS

Person(s) who disrupt or cause a disturbance at a public meeting are in violation of Penal Code § 403 and California Elections Code § 29440. Both of these sections are classified as misdemeanors.

411.2.1 PROCEDURES TO FOLLOW

When responding to a disturbance at a public meeting and criminal charges are requested following procedures shall be followed:

- (a) Request that the meeting be recessed by the Mayor or Chairperson and members of the City Council or Commissioners leave the meeting.
- (b) Request that the Mayor, Chairperson, or City Manager identify the person to be removed from the meeting.
- (c) Remove the person(s) utilizing the least amount of force necessary to accomplish the task.
- (d) If criminal charges are desired and the offense was not committed in the presence of a police officer, the Mayor, Chairperson, or City Manager will have to make a citizen's arrest.
- (e) Once the citizen's arrest has been made, the officer(s) will have the discretion to cite and release or transport the person(s) to the Riverside County Jail.
- (f) Complete all of the appropriate reports.

411.2.2 CRIMINAL CHARGES

If the Mayor, Commission Chairperson or City Manager does not wish to pursue criminal charges, the person(s) will be released, but warned about the possibility of arrest for returning and continuing to disrupt the meeting. All detained and released persons shall receive § 849(b) Penal Code notices.

411.3 CITY COUNCIL PROCEDURES

411.3.1 RIGHTS OF CITIZENS ATTENDING MEETINGS

Citizens have the right to attend the meetings of most governmental bodies and they may be permitted to address the body on subjects relevant to its business. However, citizens must observe all the rules and regulations of the body regarding attendance and addressing its members.

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Members of the public attending the meetings of governmental bodies do not have the right to interrupt or heckle. They have the right only to seek permission to be heard or to ask questions in accordance with whatever provisions for hearing public opinions or answering questions are fixed by law or have been adopted as rules of the body. They have the right to submit written petitions, protests, and requests for hearings.

411.3.2 LEGAL SOURCES

- (a) California Penal Code - § 403. This section reads, "Every person who, without authority of law, willfully disturbs or breaks up any assembly or meeting, not unlawful in its character, other than such mentioned in § 302 of the Penal Code and § 29440 of the Elections Code, is guilty of a misdemeanor." § 302 of the Penal Code refers to disturbing a religious meeting.
- (b) Elections Code - § 29440. This section reads, "Every person who, by threats, intimidations, or unlawful violence willfully hinders or prevents electors from assembling in public meetings for consideration of public questions is guilty of a misdemeanor."

411.3.3 PROCEDURES

In the event the Mayor wants an individual removed from a public meeting, for a violation of the above laws, and requests Police Department assistance, the following procedures are recommended:

- (a) The following warnings shall be given:
 - 1. Mr/Mrs. (Identify by name if known; if not, refer to "Sir/Madam"). Your conduct is disturbing the meeting. If you persist in your behavior, I shall order that you be taken into custody.
 - 2. If the disturbance continues a second warning shall be given stating, "Your conduct makes it impossible for this meeting to continue. You must remain seated and silent unless recognized by the chair, or you will be taken into custody. "
- (b) The Mayor recesses the City Council meeting. This procedure is important if criminal charges are to be pursued.
- (c) All Council Members leave the Council Chambers (To the City Manager's Office or Conference Room).
- (d) Upon the arrival of the police officers, the City Manager will identify the person(s) to be removed, and inform the police officers if criminal charges are desired.
- (e) The police officers will take control and use as much time as necessary to remove the person(s), utilizing the least amount of force.

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- (f) Once the person(s) have been removed, and the Council Chambers secured, a police officer will inform the City Manager and request that a citizen's arrest procedure take place, and that the appropriate forms be signed by the Mayor or City Manager.
- (g) The City Manager shall inform the Mayor that the City Council has been cleared of the disruption, and that the Council Meeting can be reconvened.

Foreign Diplomatic and Consular Representatives

412.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Banning Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

412.1.1 DEFINITIONS

Foreign National - Anyone who is not a citizen of the United States (U.S.). A person with dual-citizenship, U.S. and foreign, is not a foreign national.

Immunity - Refers to various protections and privileges extended to the employees of foreign governments who are present in the U.S. as official representatives of their home governments. These privileges are embodied in international law and are intended to ensure the efficient and effective performance of their official "missions" (i.e., embassies, consulates, etc.) in foreign countries. Proper respect for the immunity to which an individual is entitled is necessary to ensure that U.S. diplomatic relations are not jeopardized and to maintain reciprocal treatment of U.S. personnel abroad. Although immunity may preclude U.S. courts from exercising jurisdiction, it is not intended to excuse unlawful activity. It is the policy of the U.S. Department of State's Office of Foreign Missions (OFM) that illegal acts by Foreign Service personnel should always be pursued through proper channels. Additionally, the host country's right to protect its citizens supersedes immunity privileges. Peace officers may intervene to the extent necessary to prevent the endangerment of public safety or the commission of a serious crime, regardless of immunity claims.

412.2 POLICY

The Banning 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.

412.3 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.

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- (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.

412.4 ENFORCEMENT

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
 - 1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
 - 1. Diplomatic-level staff of missions to international organizations and recognized family members
 - 2. Diplomatic agents and recognized family members
 - 3. Members of administrative and technical staff of a diplomatic mission and recognized family members
 - 4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:

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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.

412.5 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.

412.6 DIPLOMATIC IMMUNITY TABLE

Reference table on diplomatic immunity:

Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members
Diplomatic Agent	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Member of Admin and Tech Staff	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Service Staff	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Career Consul Officer	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts. Yes otherwise (note (a))	No immunity or inviolability

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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:

- (a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.
- (b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.
- (c) A small number of senior officers are entitled to be treated identically to diplomatic agents.
- (d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

Rapid Response and Deployment

413.1 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.

413.2 POLICY

The Banning 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/Office] in protecting themselves or others from death or serious injury.

413.3 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).

413.3.1 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).

413.4 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.

413.5 PLANNING

The Patrol Division Lieutenant should coordinate critical incident planning. Planning efforts should consider:

- (a) Identification of likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Availability of building plans and venue schematics of likely critical incident target sites.
- (c) Communications interoperability with other law enforcement and emergency service agencies.
- (d) Training opportunities in critical incident target sites, including joint training with site occupants.

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- (e) Evacuation routes in critical incident target sites.
- (f) Patrol first-response training.
- (g) Response coordination and resources of emergency medical and fire services.
- (h) Equipment needs.
- (i) Mutual aid agreements with other agencies.
- (j) Coordination with private security providers in critical incident target sites.

413.6 TRAINING

The Training Sergeant should include rapid response to critical incidents in the training plan. This training should address:

- (a) Orientation to likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Communications interoperability with other law enforcement and emergency service agencies.
- (c) Patrol first-response training, including patrol rifle, shotgun, breaching tool and control device training.
 - (a) This should include the POST terrorism incident training required for officers assigned to field duties (Penal Code § 13519.12).
- (d) First aid, including gunshot trauma.
- (e) Reality-based scenario training (e.g., active shooter, disgruntled violent worker).

Illegal Auto Sales

414.1 PURPOSE AND SCOPE

The purpose of this General Order is to establish a Department Procedure for the proper handling of illegal auto sales in the City of Banning.

414.1.1 PROCEDURES

This policy outlines the procedures for dealing with automobiles being sold upon or within the limits of a parcel of land, that is vacant or upon which are present only vacant structure(s), by any person other than the owner of such parcel.

(a) COURSE OF ACTION

1. Officer sees an auto for sale on a parcel of land that is vacant or upon which are present only vacant structure(s).
2. Officer calls the phone number on the window and confirms the person on the phone is the owner of the vehicle and not the owner of the land. (Officer confirms through RIMS that the owner has not received a previous warning regarding the noted BMC sections.)
3. Officer advises the owner to immediately respond to the location and remove the vehicle. Officer advises owner that if the vehicle is not removed from the location within two hours they can be cited and their vehicle impounded.
4. When the owner arrives, the officer shall verbally warn them of the noted violations and provide them with a written copy of the BMC sections. The officer will ensure the vehicle is moved. BMC 11C-8.1 - Parking or Placement on private property for purpose of sale. BMC 12-4(a) - Business tax payment required.
5. Officer enters FI into RIMS documenting the warning with the owner's personnel information and information on the vehicle that was for sale.
6. If the officer determines the owner has already received a warning the officer will issue a citation for the noted violations and ensure the car is moved. Further disobedience of the noted BMC sections will require the officer to cite the owner of the vehicle for each new violation.
7. In the event an owner is not verbally contacted, via the phone number left on the car, and the car is parked at the location over 2 hours, the officer may impound the vehicle under Vehicle Code § 22655.5 with Watch Commander approval. The officer will leave a message for the owner on an answering machine if available advising them that if their vehicle is not moved from the location within two hours it is subject to being towed and impounded.

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8. An officer may also impound the vehicle at the Watch Commander's discretion if the owner was personally contacted by the officer but fails to respond to the location to remove the car within 2 hours.
9. The officer will complete a citation for the owner with as much information as possible and then attach the citation to the CHP 180 kept on file at the front window of the police department. When the owner arrives at the police department to remove the vehicle from impound the citation will be completed and issued by the releasing officer and submitted to records for processing along with the original officer's report.

414.2 PAPERWORK & EVIDENCE

A written report must be completed and submitted with each cite. The report shall include the words spoken in the phone call with the owner of the vehicle, copy of the citation, photo of the vehicle showing it was for sale at the location, DMV printout of the car, and DMV printout of the person cited. The reports will be filed through the Banning Court and a copy will be sent Attention to Banning City Attorney, c/o Burke, Williams & Sorensen, LLP, 611 West Sixth Street, Suite 2500, Los Angeles, CA 90017.

414.3 CITE DATES

Cite all offenders for this offense to the Banning Court on the third Thursday of the month. If you cite an offender within 10 days of the noted date then cite them to the third Thursday of the following month. The City Attorney will come into court and prosecute our cases.

Immigration Violations

415.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Banning Police Department relating to immigration and interacting with federal immigration officials.

415.1.1 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.

415.2 POLICY

It is the policy of the Banning 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/office] in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

415.3 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.

415.4 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

415.4.1 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).

415.4.2 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).

415.5 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).

415.5.1 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.

415.6 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/office] 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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415.7 INFORMATION SHARING

No member of this [department/office] 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/office] 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.

415.7.1 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.

415.7.2 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 Banning Police Department intends to comply with the request (Government Code § 7283.1).

If the Banning 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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415.7.3 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the Banning 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.

415.7.4 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.

415.7.5 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Detective Bureau supervisor shall ensure that data regarding the number of transfers of an individual to immigration authorities, as permitted by Government Code § 7284.6(a)(4), and the offense that allowed for the transfer is collected and provided to the Records Supervisor for required reporting to the DOJ (Government Code § 7284.6(c)(2)(see the Records Bureau Policy).

415.8 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 Bureau supervisor assigned to oversee the handling of any related case. The Detective Bureau 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.

415.8.1 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.

415.8.2 REPORTING TO LEGISLATURE

The Detective Bureau 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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415.8.3 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).

Emergency Utility Service

416.1 PURPOSE AND SCOPE

The City Public Works Department has personnel available to handle emergency calls 24 hours per day. Calls for service during non-business hours are frequently directed to the Police Department. Requests for such service received by this department should be handled in the following manner.

416.1.1 BROKEN WATER LINES

The City's responsibility ends at the water meter; any break or malfunction in the water system from the water meter to the citizen's residence or business is the customer's responsibility. Public Works can only turn off the valve at the meter. The citizen can normally accomplish this.

If a break occurs on the City side of the meter, emergency personnel should be called as soon as practical by Dispatch.

416.1.2 ELECTRICAL LINES

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 City of Banning Electric Department should be promptly notified, as appropriate.

416.1.3 RESERVOIRS, PUMPS, WELLS, ETC.

The City of Banning Water Department maintains the city 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.

416.1.4 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies is maintained by Dispatch.

416.2 TRAFFIC SIGNAL MAINTENANCE

The City of Banning Street Department will furnish maintenance for all traffic signals within the city, other than those maintained by the State of California.

416.2.1 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.

Aircraft Accidents

417.1 PURPOSE AND SCOPE

The purpose of this policy is to provide [department/office] 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.

417.1.1 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.

417.2 POLICY

It is the policy of the Banning Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

417.2.1 DISPATCH RESPONSIBILITIES

Dispatchers are responsible to make notifications as directed once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. Generally, the dispatcher will need to notify the following agencies or individuals when an aircraft accident has occurred.

- (a) Banning Fire Department
- (b) Banning Airport Manager
- (c) Closest military base if a military aircraft is involved
- (d) Ambulances or other assistance as required

When an aircraft accident is reported to the Police Department by the airport tower personnel the dispatcher receiving such information should verify that the tower personnel will contact the Federal Aviation Administration (FAA) Flight Standards District Office and the National Transportation Safety Board (NTSB). In the event that airport personnel are not involved, the dispatcher should notify the FAA and the NTSB.

417.2.2 RECORDS SUPERVISOR RESPONSIBILITIES

The Records Manager is responsible for the following:

- (a) Forward and maintain an approved copy of the accident report to the California Department of Aeronautics
- (b) Forward a copy of the report to the Patrol the manager of the affected airport

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417.3 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).

417.4 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

417.5 NOTIFICATIONS

When an aircraft accident is reported to this [department/office], 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)

417.6 CONTROLLING ACCESS AND SCENE AUTHORITY

Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

- (a) FAA.
- (b) Fire department, EMS or other assisting law enforcement agencies.
- (c) [Medical Examiner/JOP].
- (d) Air Carrier/Operators investigative teams with NTSB approval.
- (e) Appropriate branch of the military, when applicable.

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- (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/office] will shift to a support role for those agencies.

If NTSB or a military representative determines that an aircraft or accident does not qualify under its jurisdiction, the on-scene [department/office] supervisor should ensure the accident is still appropriately investigated and documented.

417.7 DANGEROUS MATERIALS

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

- (a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.
- (b) Pressure vessels, compressed gas bottles, accumulators and tires.
- (c) Fluids, batteries, flares and igniters.
- (d) Evacuation chutes, ballistic parachute systems and composite materials.

417.8 DOCUMENTATION

All aircraft accidents occurring within the City of Banning 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 BPD 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.

417.8.1 WRECKAGE

When reasonably safe, members should:

- (a) Obtain the aircraft registration number (N number) and note the type of aircraft.
- (b) Attempt to ascertain the number of casualties.
- (c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.
 - 1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).

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- (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.

417.8.2 WITNESSES

Members tasked with contacting witnesses should obtain:

- (a) The location of the witness at the time of his/her observation relative to the accident site.
- (b) A detailed description of what was observed or heard.
- (c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.
- (d) The names of all persons reporting the accident, even if not yet interviewed.
- (e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

417.9 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.

Field Training Officer Program

418.1 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 Banning Police Department.

It is the policy of this [department/office] 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.

418.2 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.

418.2.1 SELECTION PROCESS

FTO's will be selected based on the following requirements:

- (a) Desire to be an FTO
- (b) Minimum of two years of patrol experience preferred
- (c) Demonstrated ability as a positive role model
- (d) Participate and pass an internal oral interview selection process
- (e) Evaluation by supervisors and current FTO's
- (f) Possess a POST Basic certificate

418.2.2 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.

418.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The FTO Program supervisor should be selected from the rank of sergeant or above by the Chief of Police or a designee and should possess, or be eligible to receive, a POST Supervisory Certificate.

The responsibilities of the FTO Program supervisor include the following:

- (a) Assignment of trainees to FTOs

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- (b) Conduct FTO meetings
- (c) Maintain and ensure FTO/trainee performance evaluations are completed
- (d) Maintain, update, and issue the Field Training Manual to each trainee
- (e) Monitor individual FTO performance
- (f) Monitor overall FTO Program
- (g) Maintain liaison with FTO coordinators of other agencies
- (h) Maintain liaison with academy staff on recruit performance during the academy
- (i) Develop ongoing training for FTOs

The FTO Program supervisor will be required to successfully complete a POST-approved Field Training Administrator's Course within one year of appointment to this position (11 CCR 1004(c)).

418.4 TRAINEE DEFINED

Any entry level or lateral police officer newly appointed to the Banning Police Department who has successfully completed a POST approved Basic Academy.

418.5 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.

418.5.1 FIELD TRAINING MANUAL

Each new officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the Banning Police Department. The officer shall become knowledgeable of the subject matter as outlined. He/she shall also become proficient with those skills as set forth in the manual.

The Field Training Manual will specifically cover those policies, procedures, rules, and regulations adopted by the Banning Police Department.

418.6 EVALUATIONS

Evaluations are an important component of the training process and shall be completed as outlined below.

418.6.1 FIELD TRAINING OFFICER

The FTO will be responsible for the following:

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- (a) Complete and submit a written evaluation on the performance of his/her assigned trainee to the FTO Coordinator on a daily basis.
- (b) Review the Daily Trainee Performance Evaluations with the trainee each day.
- (c) Complete a detailed end-of-phase performance evaluation on his/her assigned trainee at the end of each phase of training.
- (d) Sign off all completed topics contained in the Field Training Manual, noting the method(s) of learning and evaluating the performance of his/her assigned trainee.

418.6.2 IMMEDIATE SUPERVISOR

The immediate supervisor shall review and approve the Daily Trainee Performance Evaluations and forward them to the Field Training Administrator.

418.6.3 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.

418.6.4 TRAINEE

At the completion of the Field Training Program, the trainee shall provide an oral evaluation on each of their FTO's and on the Field Training Program.

418.7 DOCUMENTATION

All documentation of the Field Training Program will be retained in the officer's training files and will consist of the following:

- (a) Daily Trainee Performance Evaluations
- (b) End-of-phase evaluations
- (c) A Certificate of Completion certifying that the trainee has successfully completed the required number of hours of field training

Obtaining Air Support

419.1 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.

419.2 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.

419.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval by the Watch Commander, any supervisor, or the Detective Sergeant to request helicopter assistance, the authorizing supervisor or his/her designee will call the Riverside or San Bernardino Sheriff Department depending on which agency may have the closest helicopter support available. The individual making the request will apprise that agency of the specific details of the incident prompting the request.

419.2.2 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.

Contacts and Temporary Detentions

420.1 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.

420.1.1 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.

420.2 POLICY

The Banning 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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420.3 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 Banning Police Department to strengthen community involvement, community awareness, and problem identification.

420.3.1 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

420.4 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 officer should be positioned to ensure safety and should not be involved in the search.

420.5 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.

420.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent. When taking a consensual photograph, the officer should have the individual read and sign the appropriate form accompanying the photograph.

420.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct. The subject should not be ordered to remove or lift any clothing for the purpose of taking a photograph.

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

420.5.3 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and submitted to the Watch Commander with either an associated FI card or other documentation explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an investigation where a case number has been issued, the Watch Commander should review and forward the photograph to one of the following locations:

- (a) If the photograph and associated FI or documentation is relevant to criminal organization/enterprise enforcement, the Watch Commander will forward the photograph and documents to the designated criminal intelligence system supervisor. The supervisor will ensure the photograph and supporting documents are retained as prescribed in the Criminal Organizations Policy.
- (b) Photographs that do not qualify for retention in a criminal intelligence system or temporary information file shall be forwarded to the Records Bureau.

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When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs shall be retained in accordance with the established records retention schedule.

420.5.4 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.

420.6 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 Banning 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.

Criminal Organizations

421.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Banning Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

421.1.1 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.

421.2 POLICY

The Banning 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/office] to collect and share relevant information while respecting the privacy and legal rights of the public.

421.3 CRIMINAL INTELLIGENCE SYSTEMS

No [department/office] member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for [department/office] use.

Any criminal intelligence system approved for [department/office] 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/office] 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.

421.3.1 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/office], such as open or public source documents or documents that are on file at another agency, the designated supervisor should ensure copies of those documents are retained by the Records Bureau. Any supporting documentation for an entry shall be retained by the Records Bureau in

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accordance with the established records retention schedule and for at least as long as the entry is maintained in the system.

The designated supervisor should ensure that any documents retained by the Records Bureau are appropriately marked as intelligence information. The Records Supervisor may not purge such documents without the approval of the designated supervisor.

421.3.2 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/Office], the basis for that designation, and the name of the agency that made the designation. The [Department/Office] 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/office]'s decision within 30 days of receipt of the written documentation contesting the designation and shall include the reason for a denial when applicable (Penal Code § 186.34).

The gang unit supervisor should forward reports or FIs to the Records Bureau after appropriate database entries are made. The supervisor should clearly mark the report/FI as gang intelligence information.

It is the responsibility of the Records Bureau supervisor to retain reports and FIs in compliance with the database rules and any applicable end user agreement.

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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).

421.4 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/office]-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.

421.4.1 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/office] supervisor.
- (b) Should not be originals that would ordinarily be retained by the Records Bureau or Evidence Room, but should be copies of, or references to, retained documents such as copies of reports, FI forms, Dispatch records or booking forms.
- (c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.
- (d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

421.4.2 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.

421.5 INFORMATION RECOGNITION

[Department/Office] 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/Office] supervisors who utilize an authorized criminal intelligence system should work with the Training Sergeant to train members to identify information that may be particularly relevant for inclusion.

421.6 RELEASE OF INFORMATION

[Department/Office] 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/office] 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.

421.7 CRIMINAL STREET GANGS

The Detective Bureau supervisor should ensure that there are an appropriate number of [department/office] 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.

421.7.1 CAL GANG SYSTEM

The Cal-Gang System is a closed Intelligence file system. Access to this system is regulated by the Administrator's (San Bernardino County Sheriff's Department and California Department of

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Justice). Access to the system is designated to those assigned to Gang Investigations and officers that have received training on the system only.

Information obtained through the Cal-Gang System is to be used in accordance with the guidelines set forth by the Administrators. Under no circumstances is any information that is obtained from the system and/or any reference made about the system, to be included in any type of investigative report.

Any requests for information on the system, its contents and usage by this department is to be referred to San Bernardino County Sheriff's Department. All subpoenas and/or written requests from anyone other than a bona-fide Law Enforcement agency are not to be accepted and referred to the San Bernardino County Sheriff's Department.

Watch Commanders

422.1 PURPOSE AND SCOPE

Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with departmental policies, procedures, practices, functions and objectives. To accomplish this goal, a Sergeant heads each watch.

422.2 DESIGNATION AS ACTING WATCH COMMANDER

When a Sergeant is unavailable for duty as Watch Commander, a Corporal shall be designated as acting Watch Commander.

Mobile Audio/Video

423.1 PURPOSE AND SCOPE

The Banning Police Department has equipped marked patrol cars with Mobile Audio Video (MAV) recording systems to provide records of events and assist officers in the performance of their duties. This policy provides guidance on the use of these systems.

423.1.1 DEFINITIONS

Definitions related to this policy include:

Activate - Any process that causes the MAV system to transmit or store video or audio data in an active mode.

In-car camera system and Mobile Audio/Video (MAV) system- Synonymous terms which refer to any system that captures audio and video signals, that is capable of installation in a vehicle, and that includes at minimum, a camera, microphone, recorder and monitor.

MAV technician -Personnel certified or trained in the operational use and repair of MAVs, duplicating methods, storage and retrieval methods and procedures, and who have a working knowledge of video forensics and evidentiary procedures.

Recorded media - Audio-video signals recorded or digitally stored on a storage device or portable media.

423.2 POLICY

It is the policy of the Banning Police Department to use mobile audio and video technology to more effectively fulfill the [department/office]'s mission and to ensure these systems are used securely and efficiently.

423.3 OFFICER RESPONSIBILITIES

Prior to going into service, each officer will ensure the unit's MAV is functioning properly and there is sufficient recording time available for the officer's activity during his/her shift. Officers shall test the MAV system by recording his/her name, union number and the current date and time at the start and again at the end of each shift. If the video portion of the system is malfunctioning, the officer shall take the vehicle out of service unless a supervisor requests the vehicle remain in service. If the audio portion of the system is not working properly, the officer shall equip themselves with a departmentally issued audio/digital recorder, per policy § 450.2, and shall use such device when the MAV system is recording.

All staff driving a department vehicle equipped with a MAV system will ensure that the MAV system remains on in a stand-by mode (not recording) at all times while the vehicle is in use.

423.4 ACTIVATION OF THE MAV

The MAV system is designed to turn on whenever the unit's emergency lights are activated. The system remains on until it is turned off manually. The audio portion is independently controlled and

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should be activated manually by the officer whenever appropriate. When audio is being recorded, the video will also record.

423.4.1 REQUIRED ACTIVATION OF MAV

This policy is not intended to describe every possible situation in which the MAV system may be used, although there are many situations where its use is appropriate. An officer may activate the system any time the officer believes it would be appropriate or valuable to document an incident.

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However, the audio portion can be valuable evidence and is subject to the same activation requirements as the MAV. The MAV system should be activated in any of the following situations:

- (a) All field contacts involving actual or potential criminal conduct within video or audio range:
 - 1. Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
 - 2. Priority responses
 - 3. Vehicle pursuits
 - 4. Suspicious vehicles
 - 5. Arrests
 - 6. Vehicle searches
 - 7. Physical or verbal confrontations or use of force
 - 8. Pedestrian checks
 - 9. DWI/DUI investigations including field sobriety tests
 - 10. Consensual encounters
 - 11. Crimes in progress
 - 12. Responding to an in-progress call
- (b) All self-initiated activity in which an officer would normally notify Dispatch
- (c) Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect:
 - 1. Domestic violence calls
 - 2. Disturbance of peace calls
 - 3. Offenses involving violence or weapons
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

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- (e) Any other circumstance where the officer believes that a recording of an incident would be appropriate

423.4.2 CESSATION OF RECORDING

Once activated, the MAV system should remain on until the incident has concluded. For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and all witnesses and victims have been interviewed. Recording may cease if an officer is simply waiting for a tow truck or a family member to arrive, or in other similar situations.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

423.4.3 WHEN ACTIVATION IS NOT REQUIRED

Activation of the MAV system is not required when exchanging information with other officers or during breaks, lunch periods, when not in service or actively on patrol.

No member of this [department/office] may surreptitiously record a conversation of any other member of this [department/office] except with a court order or when lawfully authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation.

423.4.4 SUPERVISOR RESPONSIBILITIES

Supervisors should determine if vehicles with non-functioning MAV systems should be placed into service. If these vehicles are placed into service, the appropriate documentation should be made, including notification of Dispatch.

At reasonable intervals, supervisors should validate that:

- (a) Beginning and end-of-shift recording procedures are followed.
- (b) Logs reflect the proper chain of custody, including:
 - 1. The tracking number of the MAV system media.
 - 2. The date it was issued.
 - 3. The law enforcement operator or the vehicle to which it was issued.
 - 4. The date it was submitted.
 - 5. Law enforcement operators submitting the media.
 - 6. Holds for evidence indication and tagging as required.
- (c) The operation of MAV systems by new employees is assessed and reviewed no less than biweekly.

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When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, officer-involved shootings, [department/office]-involved collisions), a supervisor shall respond to the scene and ensure that the appropriate supervisor, MAV technician or crime scene investigator properly retrieves the recorded media. The media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media.

Supervisors may activate the MAV system remotely to monitor a developing situation, such as a chase, riot or an event that may threaten public safety, officer safety or both, when the purpose is to obtain tactical information to assist in managing the event. Supervisors shall not remotely activate the MAV system for the purpose of monitoring the conversations or actions of an officer.

423.5 REVIEW OF MAV RECORDINGS

All recording media, recorded images and audio recordings are the property of the [Department/Office]. Dissemination outside of the agency is strictly prohibited, except to the extent permitted or required by law.

To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the [department/office] MAV technician or forensic media staff. When reasonably possible, a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.

Recordings may 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 officer conduct
- (c) By a supervisor to assess officer performance
- (d) To assess proper functioning of MAV systems
- (e) By [department/office] investigators who are participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation
- (f) By [department/office] personnel who request to review recordings
- (g) By an officer 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

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- (k) Recordings may be shown for training purposes. If an involved officer 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

Employees desiring to view any previously uploaded or archived MAV recording should submit a request in writing to the Watch Commander. Approved requests should be forwarded to the MAV technician for processing.

In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

423.6 DOCUMENTING MAV USE

If any incident is recorded with either the video or audio system, the existence of that recording shall be documented in the officer's report. If a citation is issued, the officer shall make a notation on the back of the records copy of the citation, indicating that the incident was recorded.

423.7 RECORDING MEDIA STORAGE AND INTEGRITY

Once submitted for storage, all recording media will be labeled and stored in a designated secure area. All recording media that is not booked as evidence will be retained for a minimum of one year after which time it will be erased, destroyed or recycled in accordance with the established records retention schedule (Government Code § 34090.6).

423.7.1 COPIES OF ORIGINAL RECORDING MEDIA

Original recording media shall not be used for any purpose other than for initial review by a supervisor. Upon proper request, a copy of the original recording media will be made for use as authorized in this policy.

Original recording media may only be released in response to a court order or upon approval by the Chief of Police or the authorized designee. In the event that an original recording is released to a court, a copy shall be made and placed in storage until the original is returned.

423.7.2 MAV RECORDINGS AS EVIDENCE

Officers who reasonably believe that a MAV recording is likely to contain evidence relevant to a criminal offense, potential claim against the officer or against the Banning Police Department should indicate this in an appropriate report. Officers should ensure relevant recordings are preserved.

423.8 SYSTEM OPERATIONAL STANDARDS

- (a) MAV system vehicle installations should be based on officer safety requirements and the vehicle and device manufacturer's recommendations.
- (b) The MAV system should be configured to minimally record for 30 seconds prior to an event.
- (c) The MAV system may not be configured to record audio data occurring prior to activation.

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- (d) Unless the transmitters being used are designed for synchronized use, only one transmitter, usually the primary initiating officer's transmitter, should be activated at a scene to minimize interference or noise from other MAV transmitters.
- (e) Officers using digital transmitters that are synchronized to their individual MAV shall activate both audio and video recordings when responding in a support capacity. This is to obtain additional perspectives of the incident scene.
- (f) With the exception of law enforcement radios or other emergency equipment, other electronic devices should not be used inside MAV-equipped law enforcement vehicles to minimize the possibility of causing electronic or noise interference with the MAV system.
- (g) Officers shall not erase, alter, reuse, modify or tamper with MAV recordings. Only a supervisor, MAV technician or other authorized designee may erase and reissue previous recordings and may only do so pursuant to the provisions of this policy.
- (h) To prevent damage, original recordings shall not be viewed on any equipment other than the equipment issued or authorized by the MAV technician.

423.9 MAV TECHNICIAN RESPONSIBILITIES

The MAV technician is responsible for:

- (a) Ordering, issuing, retrieving, storing, erasing and duplicating of all recorded media.
- (b) Collecting all completed media for oversight and verification of wireless downloaded media. Once collected, the MAV technician:
 - 1. Ensures it is stored in a secure location with authorized controlled access.
 - 2. Makes the appropriate entries in the chain of custody log.
- (c) Erasing of media:
 - 1. Pursuant to a court order.
 - 2. In accordance with established records retention policies, including reissuing all other media deemed to be of no evidentiary value.
- (d) Assigning all media an identification number prior to issuance to the field:
 - 1. Maintaining a record of issued media.
- (e) Ensuring that an adequate supply of recording media is available.
- (f) Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the [department/office] evidence storage protocols and the records retention schedule.

Mobile Data Terminal Use

424.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use, and application of the Mobile Data Terminal (MDT) 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/office] members and Dispatch. See the CJIS Access, Maintenance, and Security Policy for additional guidance.

424.2 POLICY

Banning Police Department members using the MDT shall comply with all appropriate federal and state rules and regulations and shall use the MDT in a professional manner, in accordance with this policy.

424.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to messages accessed, transmitted, received or reviewed on any [department/office] technology system (see the Information Technology Use Policy for additional guidance).

424.4 RESTRICTED ACCESS AND USE

MDT use is subject to the Information Technology Use, Protected Information, and CJIS Access, Maintenance, and Security policies.

Members shall not access the MDT system if they have not received prior authorization and the required training. Members shall immediately report unauthorized access or use of the MDT by another member to their supervisors or Watch Commanders.

Use of the MDT 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/Office]. 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 MDT 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 MDT system unless directed to do so by a supervisor. Members are required to log off the MDT or secure the MDT when it is unattended. This added security measure will minimize the potential for unauthorized access or misuse.

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424.4.1 USE WHILE DRIVING

Use of the MDT 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.

424.5 DOCUMENTATION OF ACTIVITY

Except as otherwise directed by the Watch Commander or other [department/office]-established protocol, all calls for service assigned by a [dispatcher should be communicated by voice over the police radio and electronically via the MDT unless security or confidentiality prevents such broadcasting.

MDT 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 MDT.

424.5.1 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 MDT 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 MDT when the vehicle is not in motion.

424.5.2 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.

424.6 EQUIPMENT CONSIDERATIONS

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424.6.1 MALFUNCTIONING MDT

Whenever possible, members will not use vehicles with malfunctioning MDTs. Whenever members must drive a vehicle in which the MDT 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.

424.6.2 BOMB CALLS

When investigating reports of possible bombs, members should not communicate on their MDTs when in the evacuation area of a suspected explosive device. Radio frequency emitted by the MDT could cause some devices to detonate.

Portable Audio/Video Recorders

425.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this [department/office] while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Banning Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

425.2 POLICY

The Banning Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the [Department/Office] by accurately capturing contacts between members of the [Department/Office] and the public.

425.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any [department/office]-issued device at any time, and any recording made while acting in an official capacity for this [department/office], regardless of ownership of the device it was made on, shall remain the property of the [Department/Office]. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

425.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the [Department/Office], and that the recorder is in good working order. If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity or conducting official police business, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

When using a portable recorder, the assigned member shall record his/her name, BPD identification number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required

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when the recording device and related software captures the user's unique identification and the date and time of each recording.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

425.4.1 NON-CRIMINAL MATTERS

At any time that an officer reasonably believes that a recorded contact may be of benefit in a non-criminal matter (e.g. a hostile contact, etc.), the officer should place the entire recording into evidence for safekeeping.

- (a) Under such circumstances, the officer shall notify a supervisor of the existence of the recording as soon as practicable.
- (b) Recording(s) which have been placed into safekeeping shall be retained for a period of no less than 180 days or until the related matter has been closed (e.g. internal investigation, civil litigation, etc.).

425.4.2 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).

If supervisors do not take custody of the portable audio/video recording device, supervisors shall ensure officer(s) who possess the portable audio/video recording device download the data onto the department's authorized electronic recording storage server as soon as practicable.

In either case, if the downloaded data constitutes evidence in a criminal case, supervisors shall ensure the downloaded data is entered into evidence in accordance with the Computers and Digital Evidence Policy.

425.5 ACTIVATION OF THE PORTABLE RECORDER

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) Self-initiated activity in which a member would normally notify Dispatch

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- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

425.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Members of the [Department/Office] may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another [department/office] member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

425.5.2 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

425.5.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

425.6 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using [department/office]-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with [department/office]-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized

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legitimate [department/office] business purposes. All such recordings shall be retained at the [Department/Office].

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Watch Commander. Any member who uses a personally owned recorder for [department/office]-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

425.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

425.8 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 Banning 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).

425.8.1 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.

425.9 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the [Department/Office] who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

425.10 COORDINATOR

The Chief of Police or the authorized designee shall appoint a member of the [Department/Office] to coordinate the use and maintenance of portable audio/video recording devices and the storage of recordings, including (Penal Code § 832.18):

- (a) Establishing a system for downloading, storing and security of recordings.
- (b) Designating persons responsible for downloading recorded data.
- (c) Establishing a maintenance system to ensure availability of operable portable audio/video recording devices.

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- (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.

Medical Marijuana

426.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this [department/office] with guidelines for investigating the acquisition, possession, transportation, delivery, production or use of marijuana under California's medical marijuana laws.

426.1.1 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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426.2 POLICY

It is the policy of the Banning 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 Banning Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

426.3 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.

426.3.1 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.

426.3.2 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.

426.3.3 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).

426.3.4 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/office] 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.

426.3.5 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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Medical Marijuana

- (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).

426.3.6 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).

426.4 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.

426.5 EVIDENCE ROOM SUPERVISOR RESPONSIBILITIES

The Evidence Room supervisor should ensure that marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed pending any charges and without a court order. The Evidence Room supervisor is not responsible for caring for live marijuana plants.

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Evidence Room supervisor should, as soon as practicable, return to the person from whom it was seized any useable medical marijuana, plants, drug paraphernalia or other related property.

The Evidence Room supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Detective Bureau supervisor.

Foot Pursuits

427.1 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

427.2 DECISION TO PURSUE

The safety of [department/office] 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/office] 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/office] 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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Foot Pursuits

427.3 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/office] 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.

Foot Pursuits

427.4 RESPONSIBILITIES IN FOOT PURSUITS

427.4.1 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.

427.4.2 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.

427.4.3 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/office] guidelines.

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Foot Pursuits

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.

427.4.4 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.

427.5 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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Foot Pursuits

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.

427.6 POLICY

It is the policy of this [department/office] 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/office] members, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances.

Crisis Intervention Incidents

428.1 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.

428.1.1 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.

428.2 POLICY

The Banning 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.

428.3 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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Crisis Intervention Incidents

428.4 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.

428.5 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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428.6 DE-ESCALATION

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

428.7 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.

428.8 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene of any interaction with a person in crisis. Responding supervisors should:

- (a) Attempt to secure appropriate and sufficient resources.

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- (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.

428.9 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.

428.9.1 DIVERSION

Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy.

428.10 NON-SWORN INTERACTION WITH PEOPLE IN CRISIS

Non-sworn members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

- (a) Members should treat all individuals equally and with dignity and respect.
- (b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.
- (c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

428.11 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

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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.

428.12 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).

Public Recording of Law Enforcement Activity

429.1 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.

429.2 POLICY

The Banning 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.

429.3 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.

429.4 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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Public Recording of Law Enforcement Activity

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.

429.5 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the officer and:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
- (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of Department members, such as how and where to file a complaint.

429.6 SEIZING RECORDINGS AS EVIDENCE

Officers should not seize recording devices or media unless (42 USC § 2000aa):

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
 - 1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
 - 1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
 - 2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

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Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

First Amendment Assemblies

430.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

430.2 POLICY

The Banning Police Department respects the rights of people to peaceably assemble. It is the policy of this [department/office] 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.

430.3 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/office] members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

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First Amendment Assemblies

430.3.1 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/office] 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.

430.4 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.

430.5 PLANNED EVENT PREPARATION

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

430.5.1 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).

430.5.2 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.

430.5.3 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).

430.6 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.

430.7 USE OF FORCE

Use of force is governed by current [department/office] 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/office] shall be documented promptly, completely, and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

430.8 ARRESTS

The Banning 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).

430.9 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).

430.9.1 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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430.10 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.

430.11 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)

430.11.1 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.

430.12 TRAINING

[Department/Office] 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/Office] 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.

430.13 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.

430.13.1 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/office] 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

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to the [Department/Office] at the time of the report and include the information required in Penal Code § 13652.1.

430.14 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).

Medical Aid and Response

431.1 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.

431.2 POLICY

It is the policy of the Banning Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

431.3 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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431.4 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.

431.5 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.

431.6 MEDICAL ATTENTION RELATED TO USE OF FORCE

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies.

431.7 AIR AMBULANCE

Generally, when on-scene, EMS personnel will be responsible for determining whether an air ambulance response should be requested. An air ambulance may be appropriate when there are victims with life-threatening injuries or who require specialized treatment (e.g., gunshot wounds, burns, obstetrical cases), and distance or other known delays will affect the EMS response.

The Patrol Division Commander should develop guidelines for air ambulance landings or enter into local operating agreements for the use of air ambulances, as applicable. In creating those guidelines, the [Department/Office] should identify:

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- Responsibility and authority for designating a landing zone and determining the size of the landing zone.
- Responsibility for securing the area and maintaining that security once the landing zone is identified.
- Consideration of the air ambulance provider's minimum standards for proximity to vertical obstructions and surface composition (e.g., dirt, gravel, pavement, concrete, grass).
- Consideration of the air ambulance provider's minimum standards for horizontal clearance from structures, fences, power poles, antennas or roadways.
- Responsibility for notifying the appropriate highway or transportation agencies if a roadway is selected as a landing zone.
- Procedures for ground personnel to communicate with flight personnel during the operation.

One [department/office] member at the scene should be designated as the air ambulance communications contact. Headlights, spotlights and flashlights should not be aimed upward at the air ambulance. Members should direct vehicle and pedestrian traffic away from the landing zone.

Members should follow these cautions when near an air ambulance:

- Never approach the aircraft until signaled by the flight crew.
- Always approach the aircraft from the front.
- Avoid the aircraft's tail rotor area.
- Wear eye protection during landing and take-off.
- Do not carry or hold items, such as IV bags, above the head.
- Ensure that no one smokes near the aircraft.

431.8 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).

431.8.1 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 Sergeant 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.

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431.8.2 AED REPORTING

Any member using an AED will complete an incident report detailing its use.

431.8.3 AED TRAINING AND MAINTENANCE

The Training Sergeant should ensure appropriate training and refresher training is provided to members authorized to use an AED. A list of authorized members and training records shall be made available for inspection by the local EMS agency (LEMSA) or EMS authority upon request (22 CCR 100027.05; 22 CCR 100027.06; 22 CCR 100028.07).

The Training Sergeant is responsible for ensuring AED devices are appropriately maintained and will retain records of all maintenance in accordance with the established records retention schedule (22 CCR 100027.05).

431.9 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION

Trained members may administer opioid overdose medication (Business and Professions Code § 4119.9).

431.9.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES

Members who are qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training. Members should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and given to the Training Sergeant.

Any member who administers an opioid overdose medication should contact Dispatch as soon as possible and request response by EMS.

431.9.2 OPIOID OVERDOSE MEDICATION REPORTING

Any member administering opioid overdose medication should detail its use in an appropriate report.

The Training Sergeant will ensure that the Records Supervisor is provided enough information to meet applicable state reporting requirements.

431.9.3 OPIOID OVERDOSE MEDICATION TRAINING

The Training Sergeant should ensure initial and refresher training is provided to members authorized to administer opioid overdose medication. Training should be coordinated with the local health department and comply with the requirements in 22 CCR 100027.03 and any applicable POST standards.

431.9.4 DESTRUCTION OF OPIOID OVERDOSE MEDICATION

The Training Sergeant shall ensure the destruction of any expired opioid overdose medication (Business and Professions Code § 4119.9).

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431.9.5 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).

431.10 ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS

The Patrol Division Commander may authorize the acquisition of epinephrine auto-injectors for use by [department/office] members as provided by Health and Safety Code § 1797.197a. The Training Sergeant shall create and maintain an operations plan for the storage, maintenance, use and disposal of epinephrine auto-injectors as required by Health and Safety Code § 1797.197a(f).

Trained members who possess valid certification may administer an epinephrine auto-injector for suspected anaphylaxis (Health and Safety Code § 1797.197a(b); 22 CCR 100027.03).

431.10.1 EPINEPHRINE USER RESPONSIBILITIES

Members should handle, store and administer epinephrine auto-injectors consistent with their training and the [Department/Office] operations plan. Members should check the auto-injectors at the beginning of their shift to ensure the medication is not expired. Any expired medication should be removed from service in accordance with the [Department/Office] Operations Plan.

Any member who administers an epinephrine auto-injector medication should contact Dispatch as soon as possible and request response by EMS (Health and Safety Code § 1797.197a(b)).

431.10.2 EPINEPHRINE AUTO-INJECTOR REPORTING

Any member who administers an epinephrine auto-injector should detail its use in an appropriate report.

The Training Sergeant should ensure that the Records Supervisor is provided enough information for required reporting to the EMS Authority within 30 days after each use (Health and Safety Code § 1797.197a(f)).

Records regarding the acquisition and disposition of epinephrine auto-injectors shall be maintained pursuant to the established records retention schedule but no less than three years (Business and Professions Code § 4119.4(d)).

431.10.3 EPINEPHRINE AUTO-INJECTOR TRAINING

The Training Sergeant should ensure that members authorized to administer epinephrine auto-injectors are provided with initial and refresher training that meets the requirements of Health and Safety Code § 1797.197a(c) and 22 CCR 100027.03.

431.11 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.

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If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance 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 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.

431.12 FIRST-AID TRAINING

The Training Sergeant should ensure officers receive initial first-aid training within one year of employment and refresher training every two years thereafter (22 CCR 100026.03; 22 CCR 100027.06).

Body-Worn Cameras

434.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of a body-worn camera (BWC) by members of this [department/office] and for the access, use, and retention of [department/office] BWC media.

The provisions of this policy, including notice, documentation, access, and retention, also apply to other portable audio/video recording devices used by members, where applicable.

This policy does not apply to undercover operations, wiretaps, or eavesdropping (concealed listening devices).

434.1.1 DEFINITIONS

Definitions related to this policy include:

Activate - To place a BWC in active mode (also called event mode). In active mode, the BWC records both video and audio.

BWC media - The video, audio, and images captured by [department/office] BWCs and the associated metadata.

BWC media systems - Any software, including web-based programs and mobile applications, used by the [Department/Office] to upload/download, store, view, transfer, and otherwise maintain BWC media.

Deactivate - To place a BWC in buffering mode (also called ready or pre-event mode). In buffering mode, the BWC records video (without audio) in short, predetermined intervals that are retained only temporarily. However, when a BWC is activated, the interval recorded immediately prior to activation is then stored as part of the BWC media. Deactivate does not mean powering off the BWC.

Event - A general term referring to a set of circumstances that may, but does not necessarily, correlate directly to a single public safety incident.

434.2 POLICY

It is the policy of the [Department/Office] to use BWCs and BWC media for evidence collection and to accurately document events in a way that promotes member safety and [department/office] accountability and transparency while also protecting the privacy of members of the public.

A violation of this policy subjects the member to discipline (Penal Code § 832.18) (see the Personnel Complaints Policy).

434.3 RESPONSIBILITIES

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434.3.1 BWC COORDINATOR RESPONSIBILITIES

The Chief of Police or the authorized designee should delegate certain responsibilities to a BWC coordinator.

The responsibilities of the coordinator include (Penal Code § 832.18):

- (a) Serving as a liaison between the [Department/Office] and the BWC manufacturer/distributor and any third-party media storage vendor.
- (b) Developing inventory procedures for issuing and tracking BWC equipment, including properly marking BWCs as property of the [Department/Office] and recording the date each BWC is placed into or taken out of service.
- (c) Assisting with troubleshooting and maintenance of BWC equipment and media systems and, when necessary, coordinating the repair or replacement of BWCs.
 - 1. All equipment and system malfunctions and their resolutions should be documented, and maintenance and repair records should be maintained for all BWCs.
- (d) Managing BWC media systems so that:
 - 1. Access is limited to the minimum necessary authorized users and user privileges are restricted to those necessary for the member to conduct assigned [department/office] duties.
 - 2. Security requirements, such as two-factor authentication and appropriate password parameters, are in place for user credentials.
- (e) Configuring BWC media systems, or developing manual procedures, so that media is appropriately categorized and retained according to the event type tagged by members.
- (f) Retaining audit logs or records of all access, alteration, and deletion of BWC media and media systems, and conducting periodic audits to ensure compliance with applicable laws, regulations, and [department/office] policy.
- (g) Developing and updating BWC training for members who are assigned a BWC or given access to BWC media systems.
- (h) Coordinating with the community relations coordinator to (see the Community Relations Policy):
 - 1. Provide the public with notice of the [department/office]'s use of BWCs (e.g., posting on the [department/office] website or social media pages).
 - 2. Gain insight into community expectations regarding BWC use.
- (i) Coordinating with the Records Supervisor to (see the Records Bureau and Records Maintenance and Release policies):
 - 1. Determine and apply proper retention periods to BWC media. Agency legal counsel should be consulted in determining retention periods.
 - 2. Develop procedures for the appropriate release of BWC media.

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- (j) Coordinating with the Evidence Room to develop procedures for the transfer, storage, and backup of evidentiary BWC media (see the Property and Evidence Policy).
- (k) Establishing a system to prevent tampering with, deleting, or copying recordings, and to ensure chain of custody integrity.
- (l) Designating the persons responsible for downloading the recorded data from the BWC.

434.3.2 MEMBER RESPONSIBILITIES

Every member issued a BWC is responsible for its proper use, safekeeping, and maintenance (Penal Code § 832.18).

At the beginning of each shift or period of BWC use, the member should inspect their assigned BWC to confirm it is charged and in good working order. As part of the inspection, the member should perform a function test by activating the BWC and recording a brief video stating their name, identification number, assignment, and the date and time.

Members should wear their assigned BWC on their outermost garment positioned at or near chest level and as close to the center of their body as practicable. Members are responsible for ensuring there are no obstructions and that the BWC remains in a position suitable for recording.

When a BWC is not in the physical possession of the member to which it is assigned, it should be placed on the charging dock and stored in a secure location.

Members shall report any malfunction or damage to the BWC coordinator or on-duty supervisor as soon as practicable and, if possible, obtain a functioning BWC to use either temporarily while repairs are being made to the member's BWC or as a permanent replacement.

434.4 BWC USE

The following guidelines apply to the use of BWCs:

- (a) Only [department/office]-issued BWCs should be used. Members are prohibited from using any other BWC without the express consent of the Chief of Police or the authorized designee.
- (b) BWCs should only be used by the member or members to whom it was issued unless otherwise authorized by a supervisor.
- (c) The use of [department/office]-issued BWCs shall be strictly limited to [department/office]-related activities (Penal Code § 832.18).
- (d) Members shall not use BWCs or BWC media systems for which they have not received prior authorization and appropriate training.
- (e) Members shall immediately report unauthorized access or use of BWCs or BWC media systems by another member to their supervisor or the Chief of Police.

434.4.1 PROHIBITIONS

BWCs should not be used to record:

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- (a) Routine administrative activities of the [Department/Office] that do not involve interactions with the public. Care should be taken to avoid incidentally recording confidential documents that the [Department/Office] has a duty to keep secure (i.e., criminal justice information).
- (b) Areas within the [department/office] facilities where members have a reasonable expectation of privacy (e.g., locker rooms or dressing areas, breakrooms) unless responding to a call for service or conducting an investigation.
- (c) Conversations of other members without their knowledge.
- (d) When a member is taking an authorized break or otherwise engaged in personal activities.
- (e) In a courtroom unless responding to a call for service or emergency situation.
- (f) Interactions with undercover officers or confidential informants.
- (g) Strip searches.

BWCs shall not be used for the purpose of embarrassment, harassment, or ridicule of any individual or group.

434.5 ACTIVATION OF BWC

Members should activate their BWC during all calls for service and the performance of law enforcement-related functions. Members are not required to activate their BWC during casual or informal contacts with members of the public that are not part of or related to law enforcement functions. However, members should activate their BWC any time a contact with an individual becomes hostile or adversarial.

Unless otherwise authorized by this policy or approved by a supervisor, BWCs should remain activated until the call for service or law enforcement-related function has concluded. A member may cease recording if they are simply waiting for a tow truck or a family member to arrive, or in other similar situations.

At no time is a member expected to jeopardize their safety to activate their BWC. However, the BWC should be activated as soon as reasonably practicable in required situations.

If a member attempts to activate their BWC but the BWC fails to record an event, the member should notify their supervisor as soon as practicable.

434.5.1 NOTICE OF RECORDING

Unless otherwise approved based on unique circumstances, a member should wear the BWC in a manner that is conspicuous and shall answer truthfully if asked whether they are equipped with a BWC or if their BWC is activated.

434.5.2 PRIVACY CONSIDERATIONS

Members should remain sensitive to the dignity of individuals being recorded and should exercise sound discretion with respect to privacy concerns.

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When responding to a place where individuals have an expectation of privacy (e.g., private residences, medical or mental health facilities, restrooms) or to a sensitive situation (e.g., individuals partially or fully unclothed), members are permitted to mute or deactivate their BWC if it reasonably appears that the privacy concern outweighs any legitimate [department/office] interest in recording the event. Members may also mute or deactivate their BWC:

- (a) To protect the privacy of a victim or witness.
- (b) When an individual wishes to provide information anonymously.
- (c) To avoid recording a confidential informant or undercover officer.
- (d) When discussing case tactics or strategy.
- (e) During private conversations with other members or emergency responders.

Members should choose to mute rather than deactivate BWCs when practicable. Deactivation should only be used when muting the BWC will not accomplish the level of privacy necessary for the situation.

Before muting or deactivating their BWC, the member should verbally narrate the reason on the recording. As soon as possible once the privacy concern is no longer an issue, or when circumstances change so that the privacy concern no longer outweighs the [department/office]'s interest in recording the event (e.g., the individual becomes combative, the conversation ends), the member should unmute or reactivate their BWC and verbally note that recording has resumed.

434.5.3 LIVESTREAMING

Livestreaming enables authorized individuals to remotely view the audio and video captured by a member's BWC in real time. Only supervisors and [dispatchers approved by the Chief of Police or the authorized designee shall have access to livestreaming capabilities.

Livestreaming should only be activated:

- (a) For purposes of member safety when the member is not responding to their radio or there is some other indication of distress.
- (b) To assist with situational awareness or tactical decisions during a significant incident.
- (c) When requested by the member.

434.5.4 DOCUMENTATION

Members are encouraged to provide narration while using a BWC when it would be useful to provide context or clarification of the events being recorded. However, the use of a BWC is not a replacement for written reports and should not be referred to in a written report in place of detailing the event.

Every report prepared by a member who is issued a BWC should state "BWC available" or "BWC unavailable," as applicable, and should document:

- (a) To the extent practicable and relevant, the identity of individuals appearing in the BWC media.

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- (b) An explanation of why BWC media is unavailable including any malfunction, damage, or battery issue that resulted in the failure of the BWC to capture all or part of the event.
- (c) Any exigency or other circumstances that prevented the member from immediately activating the recording at the beginning of the event.
- (d) Any period of the event in which the member deactivated or muted their BWC and the reason for such action.
- (e) If livestreaming was activated during the event, the reason for livestreaming and the members who communicated or participated in the event through BWC livestreaming.

434.6 DOWNLOADING BWC MEDIA

Unless otherwise authorized by a supervisor, all media from a member's BWC should be properly downloaded and tagged before the end of their shift. BWC media related to a serious or high-profile event (e.g., search for a missing child, active shooter situation) should be downloaded and tagged as soon as practicable upon returning to the [Department/Office] (Penal Code § 832.18).

Following an officer involved shooting or death or other event deemed necessary, a supervisor should take possession of the BWC for each member present and download and tag the BWC media if the storage system does not have automatic downloading capacity (Penal Code § 832.18).

434.6.1 TAGGING BWC MEDIA

Members should tag all media captured by their BWC with their name and/or identification number, the case or incident number, and the event type. BWC media should be tagged upon downloading or, if capabilities permit tagging in the field, as close to the time of the event as possible. If more than one event type applies to BWC media, it should be tagged with each event type. If BWC media can only be tagged with a single event type, the media should be tagged using the event type with the longest retention period.

BWC media depicting sensitive circumstances or events should be tagged as restricted. BWC media should be flagged for supervisor review when it pertains to a significant event such as:

- (a) An incident that is the basis of a formal or informal complaint or is likely to result in a complaint.
- (b) When a member has sustained a serious injury or a line-of-duty death has occurred.
- (c) When a firearm discharge or use of force incident has occurred.
- (d) An event that has attracted or is likely to attract significant media attention.

Supervisors should conduct audits at regular intervals to confirm BWC media is being properly downloaded and tagged by their subordinates.

434.7 BWC MEDIA

All BWC media is the sole property of the [Department/Office] (Penal Code § 832.18). Members shall have no expectation of privacy or ownership interest in the content of BWC media.

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All BWC media shall be stored and transferred in a manner that is physically and digitally secure with appropriate safeguards to prevent unauthorized modification, use, release, or transfer. Contracts with any third-party vendors for the storage of BWC media should include provisions specifying that all BWC media remains the property of the [Department/Office] and shall not be used by the vendor for any purpose without explicit approval of the Chief of Police or the authorized designee (Penal Code § 832.18).

Members shall not alter, copy, delete, release, or permit access to BWC media other than as permitted in this policy without the express consent of the Chief of Police or the authorized designee (Penal Code § 832.18).

BWC media systems should not be accessed using personal devices unless authorized by the Chief of Police or the authorized designee.

434.7.1 ACCESS AND USE OF BWC MEDIA

BWC media systems shall only be accessed by authorized members using the member's own login credentials and in accordance with the Information Technology Use Policy.

BWC media shall only be accessed and viewed for legitimate [department/office]-related purposes in accordance with the following guidelines:

- (a) BWC media tagged as restricted should only be accessible by those designated by the Chief of Police or the authorized designee.
- (b) Members may review their own BWC media for [department/office]-related purposes. Members should document in their report if they reviewed BWC media before completing the report.
- (c) Investigators may review BWC media pertaining to their assigned cases.
- (d) A member testifying regarding a [department/office]-related event may review the pertinent BWC media before testifying.
- (e) Supervisors are permitted to access and view BWC media of their subordinates.
 - 1. Supervisors should review BWC media that is tagged as a significant event or that the supervisor is aware pertains to a significant event.
 - 2. Supervisors should conduct documented reviews of their subordinate's BWC media at least annually to evaluate the member's performance, verify compliance with [department/office] procedures, and determine the need for additional training. The review should include a variety of event types when possible. Supervisors should review BWC media with the recording member when it would be beneficial to provide guidance or to conduct one-on-one informal training for the member.
 - 3. Supervisors should conduct periodic reviews of a sample of each subordinate's BWC media to evaluate BWC use and ensure compliance with this policy.
- (f) The Training Sergeant is permitted to access and view BWC media for training purposes.

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1. The Training Sergeant should conduct a quarterly review of a random sampling of BWC media to evaluate [department/office] performance and effectiveness and to identify specific areas where additional training or changes to protocols would be beneficial. Training Committee members may review BWC media as part of their review to identify training needs.
 2. The Training Sergeant may use BWC media for training purposes with the approval of the Chief of Police or the authorized designee. The Training Sergeant should use caution to avoid embarrassing or singling out a member and, to the extent practicable, should seek consent from the members appearing in the BWC media before its use for training. When practicable, sensitive issues depicted in BWC media should be redacted before being used for training.
- (g) The Records Supervisor may access BWC media when necessary to conduct [department/office]-related duties.
- (h) The BWC coordinator may access BWC media and the BWC media system as needed to ensure the system is functioning properly, provide troubleshooting assistance, conduct audits, and fulfill other responsibilities related to their role.

434.7.2 PUBLIC ACCESS

Unless disclosure is required by law or a court order, BWC media should not be released to the public if it unreasonably violates a person's privacy or sense of dignity or depicts the interior of:

- (a) A private residence.
- (b) A facility that offers health care, mental health or substance abuse treatment, or social services.
- (c) A school building.
- (d) Any other building in which public access is restricted or which implicates heightened security concerns.

Requests for the release of BWC media shall be processed in accordance with the Records Maintenance and Release Policy. The Records Supervisor should review BWC media before public release.

434.8 RETENTION OF BWC MEDIA

Non-evidentiary BWC media should be retained for a minimum of 60 days, after which it may be erased, destroyed, or recycled. Non-evidentiary media may be kept for more than 60 days for availability in case of a civilian complaint and to preserve transparency (Penal Code § 832.18).

Unless circumstances justify continued retention, BWC media should be permanently deleted upon the expiration of the retention period in a way that it cannot be retrieved. BWC media shall not otherwise be deleted by any person without the authorization of the Chief of Police or the authorized designee.

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

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434.8.1 EVIDENTIARY BWC MEDIA

BWC media relevant to a criminal prosecution should be exported from the BWC media system and securely transferred to digital evidence storage according to established [department/office] procedures. Evidentiary BWC media is subject to the same laws, policies, and procedures as all other evidence, including chain of custody, accessibility, and retention periods (see the Property and Evidence Policy).

Evidentiary BWC media should be retained for a minimum of two years under the following circumstances (Penal Code § 832.18):

- (a) The recording is of an incident involving the use of force by an officer or an officer-involved shooting.
- (b) The recording is of an incident that leads to the detention or arrest of an individual.
- (c) The recording is relevant to a formal or informal complaint against an officer or the Banning 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).

434.9 TRAINING

The BWC coordinator should ensure that each member issued a BWC receives initial training before use, and periodic refresher training thereafter. Training should include:

- (a) Proper use of the BWC device and accessories.
- (b) When BWC activation is required, permitted, and prohibited.
- (c) How to respond to an individual's request to stop recording.
- (d) Proper use of the BWC media systems, including downloading and tagging procedures.
- (e) Security procedures for BWC media, including appropriate access and use.

Members who are not issued a BWC but who have access to BWC media systems shall receive training on the BWC media system, including appropriate access, use, and security procedures.

Chapter 5 - Traffic Operations

Traffic Function and Responsibility

500.1 PURPOSE AND SCOPE

The ultimate goal of traffic law enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on accident data, enforcement activity records, traffic volume, and traffic conditions. This [department/office] 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 Banning 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/office] 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 HIGH-VISIBILITY VESTS

The [Department/Office] has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of [department/office] members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601; 8 CCR 1598).

Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

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500.5.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as a member of law enforcement.

Traffic Collision Reporting

501.1 PURPOSE AND SCOPE

The Banning 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.

501.2 RESPONSIBILITY

The Supervisor designated to oversee Traffic Officers will be known as the Traffic Supervisor and will be responsible for distribution of the CIM manual. That supervisor will receive all changes in the State Manual and ensure conformity with this policy.

501.3 TRAFFIC COLLISION REPORTING

All Traffic Collision Reports taken by members of the Banning Police Department shall be forwarded to the Traffic Supervisor for approval and data entry into the Banning Police Department Records Management System. The Traffic Supervisor will be responsible for monthly and quarterly reports on traffic collision statistics to be forwarded to the Field Operations Division Lieutenant, or other persons as required.

501.4 REPORTING SITUATIONS

501.4.1 TRAFFIC COLLISIONS INVOLVING CITY VEHICLES

Traffic collision investigation reports shall be taken when a City-owned vehicle is involved in a traffic collision upon a roadway or highway wherein any damage or injury results. A general information report may be taken in lieu of a traffic collision report (CHP 555 form) at the direction of a supervisor when the collision occurs on private property or does not involve another vehicle. Whenever there is damage to a City vehicle, a Vehicle Damage Report shall be completed and forwarded to the appropriate Division Lieutenant.

Photographs of the collision scene and vehicle damage shall be taken at the discretion of the traffic investigator or any supervisor.

501.4.2 TRAFFIC COLLISIONS WITH POLICE DEPARTMENT EMPLOYEES

When an employee of this department, either on-duty or off-duty, is involved in a traffic collision within the jurisdiction of the Banning Police Department, resulting in major property damage, a serious injury or fatality, the Traffic Sergeant or the Watch Commander, shall request the California Highway Patrol to conduct the investigation.

The term serious injury is defined as any injury that may result in a fatality.

501.4.3 TRAFFIC COLLISIONS WITH OTHER CITY EMPLOYEES OR OFFICIALS

The Traffic Sergeant or on-duty Watch Commander shall request the California Highway Patrol to investigate any traffic collision involving any City official or employee where major property damage, a serious injury, or fatality has occurred.

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501.4.4 TRAFFIC COLLISIONS ON PRIVATE PROPERTY

In compliance with the Collision Investigation Manual, traffic collision reports shall not be taken for traffic collisions occurring on private property unless there is a death or injury to any person involved, a hit-and-run violation, or Vehicle Code violation. An Incident Report may be taken at the discretion of any supervisor.

501.4.5 TRAFFIC COLLISIONS ON ROADWAYS OR HIGHWAYS

(a) COLLISION INVESTIGATION: A collision shall be documented as an "investigation" when one or more of the following conditions apply (To Complete CHP 555, refer to CIM Chapter 7, Instructions for Completing the CHP 556, Narrative/Supplemental, Page 7-3, Investigation Narrative):

1. A motor vehicle traffic collision results in the death of a person on or off a highway.
2. A motor vehicle traffic collision results in personal injury. (Refer CIM to paragraph 8, Collision Report for exceptions.)
3. All collisions resulting in an in-custody arrest for a violation of Vehicle Code §§ 2800.1, 20002, or 23152.
4. The collision is the result of an identifiable violation and prosecution will be sought. To support the prosecution, statements, collection of evidence, and a detailed analysis of the collision is required to prove the section violated. When the offense to be prosecuted is not collision related, such as possession or storage of an open container of alcoholic beverage, the requirement for an INVESTIGATION should be based upon the needs of the prosecuting attorney.
5. An involved party is in violation of the hit-and-run provisions of Vehicle Code § 20002, on or off the highway, and sufficient information is available to identify the hit-and-run driver through follow-up. For example:
6. A witness to the collision records the license plate number of the Hit-and-run vehicle and can identify the driver.
7. Witnesses provide a description of the hit-and-run vehicle and sufficient physical evidence (vehicle parts, personal property, etc.) is available for later identification of the vehicle and driver at the time of the collision.

(b) COLLISION REPORT: A collision may be documented as a REPORT (refer to CIM to complete CHP555 and Chapter 7 pg. 7-7 for collision report narrative instructions) when one or more of the following conditions apply:

1. A collision in which the only injury or injuries involve a "Complaint of Pain" claim provided the party exhibits no visible physical injuries, refuses medical treatment at the scene, and is not transported to a medical facility.

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- (a) The Supervisor or officer(s) on scene should recognize situations where a "Complaint of Pain" injury may involve authentic internal or other non-visible injuries. Careful consideration of all factors (e.g., vehicle damage, physical evidence, mechanism of injury, fraud, potential for serious non-visible injury, etc.) associated with the collision shall be made prior to documenting the collision in the REPORT format.
- 2. A collision involves damage to private property and the driver is unable to notify the property owner in compliance with VC Section 20002, but notifies this Department without unnecessary delay.
- 3. A collision involves property damage only and the officer witnesses the violation causing the collision and issues a citation at the scene of a property damage only collision.
- 4. A collision involves a late-reported injury. (Refer to CIM Chapter 2, Definitions and Classifications of Collisions, Page 2-8, Late-Reported Collision.)
- 5. An involved party is in violation of hit and run provisions of Vehicle Code § 20002, on or off the highway and there is insufficient information available to identify the driver through follow-up.
- 6. A collision involves damage to city property or private property where sufficient structural damage to any building is present.
- (c) **NON- INJURY COLLISIONS:** In the event the collision is non-injury, the officers will assist the drivers in exchanging information. The officers should check the license status, registration and insurance information of both parties involved.

501.5 NOTIFICATION OF TRAFFIC BUREAU SUPERVISION

In the event of a serious injury or death related traffic collision, the Watch Commander shall notify the Field Operations Division Lieutenant to relate the circumstances of the traffic collision. The Watch Commander or any supervisor may assign a Collision Investigator or motor officer to investigate the traffic collision.

Vehicle Towing and Release

502.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Banning Police Department. Nothing in this policy shall require the [Department/Office] to tow a vehicle.

502.2 STORAGE AND IMPOUNDS

When circumstances permit, for example when towing a vehicle for parking or registration violations, the handling employee should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 24 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately.

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

502.2.1 VEHICLE STORAGE REPORT

[Department/Office] members requesting towing, storage, or impound of a vehicle shall complete CHP Form 180 and accurately record the mileage and a description of property within the vehicle (Vehicle Code § 22850). A copy of the storage report should be given to the tow truck operator, and the original shall be submitted to the Records Bureau as soon as practicable after the vehicle is stored.

502.2.2 REMOVAL FROM TRAFFIC COLLISION SCENES

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the rotational list of towing companies in Dispatch.

If the owner is incapacitated, or for any reason it is necessary for the [Department/Office] to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call the official towing garage for the City of Banning. The officer will then store the vehicle using a CHP Form 180.

502.2.3 STORAGE AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this [department/office] to provide reasonable safekeeping by storing the arrestee's vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high-crime area).

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The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- Traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases, the owner shall be informed that the [Department/Office] will not be responsible for theft or damages.

502.2.4 IMPOUNDMENT AT SOBRIETY CHECKPOINTS

Whenever a driver is stopped at a sobriety checkpoint and the only violation is that the operator is driving without a valid driver's license, the officer shall make a reasonable attempt to identify the registered owner of the vehicle (Vehicle Code § 2814.2). The officer shall release the vehicle to the registered owner if the person is a licensed driver, or to another licensed driver authorized by the registered owner, provided the vehicle is claimed prior to the conclusion of the checkpoint operation.

If the vehicle is released at the checkpoint, the officer shall list on his/her copy of the notice to appear the name and driver's license number of the person to whom the vehicle is released.

When a vehicle cannot be released at the checkpoint, it shall be towed (Vehicle Code § 22651(p)). When a vehicle is removed at the checkpoint, it shall be released during the normal business hours of the storage facility to the registered owner or his/her agent upon presentation of a valid driver's license and current vehicle registration.

502.2.5 DRIVING A NON-CITY VEHICLE

Vehicles which have been towed by or at the direction of the [Department/Office] should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

502.2.6 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified authorized towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

When there is no preferred company requested, the dispatcher shall call the next firm in rotation from the list of approved towing companies and shall make appropriate entries on that form to ensure the following firm is called on the next request.

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The dispatcher shall promptly enter pertinent data from the completed storage form (CHP Form 180) 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).

502.2.7 RECORDS BUREAU RESPONSIBILITY

Records personnel shall promptly enter pertinent data from the completed storage form (CHP Form 180) into the Stolen Vehicle System and return the form to the 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 the auto-file so that they are immediately available for release or review should inquiries be made.

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the Records Bureau to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice shall be sent to all such individuals by 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/Office]
- (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

502.3 TOWING SERVICES

The City of Banning periodically selects a firm to act as the official tow service and awards a contract to that firm. This firm will be used in the following situations:

- (a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.
- (b) When a vehicle is being held as evidence in connection with an investigation.
- (c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles, and the removal of vehicles obstructing traffic in violation of state or local regulations.

502.3.1 "NO PREFERENCE" TOW SERVICES

The Police Department will assist citizens by calling any towing company desired. If the citizen has no preference and requests that an officer call a towing company, one of the authorized firms shall be called in the rotation.

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All officers are specifically prohibited from directly or indirectly soliciting for or recommending any garage or tow service.

502.4 VEHICLE INVENTORY

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in police custody, to provide for the safety of officers, and to protect the [Department/Office] against fraudulent claims of lost, stolen, or damaged property.

502.4.1 30 DAY IMPOUNDS

When an officer makes an arrest for driving on a suspended license and the driver's suspension meets the criteria as set forth in Vehicle Code § 14602.6, the Officer should impound the vehicle for 30 days pursuant to Vehicle Code § 14602.6. The vehicle's registered owner will be entitled to a hearing as set forth in Vehicle Code § 22852.

502.5 SECURITY OF VEHICLES AND PROPERTY

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officers should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) that are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft, or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

502.6 RELEASE OF VEHICLE

The [Department/Office] will maintain a listed, 24-hour telephone number to provide information regarding impoundment of vehicles and the right of the registered owner to request a storage hearing. Releases for towed vehicles will be made available during regular, non-emergency business hours (Vehicle Code § 14602.6).

- (a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3; Vehicle Code § 22850.5).
- (b) Vehicles removed that require payment of parking fines or proof of valid driver's license shall only be released upon presentation of proof of compliance, proof of payment, completion of affidavit, and payment of applicable fees related to the removal (Vehicle Code § 22651 et seq., Vehicle Code § 22652 et seq., Vehicle Code § 22850.3; Vehicle Code § 22850.5).
- (c) A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or his/her agent with proof of current registration, proof of a valid driver's license, and applicable fees paid prior to the end of the 30-day impoundment period under any of the following circumstances:

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1. The vehicle was stolen.
 2. If the driver reinstates his/her driver's license or acquires a license and provides proof of proper insurance.
 3. Any other circumstance as set forth in Vehicle Code § 14602.6.
 4. When there is no remaining community caretaking need to continue impound of the vehicle or the continued impound would not otherwise comply with the Fourth Amendment.
- (d) An autonomous vehicle removed under authority of Vehicle Code § 22651(o)(1)(D) shall be released to the registered owner or person in control of the autonomous vehicle if the requirements of Vehicle Code § 22651(o)(3)(B) are met.

Personnel whose duties include releasing towed vehicles should consult the Vehicle Code under which the vehicle was towed or impounded for any specific requirements prior to release.

Employees who suspect that a vehicle was impounded in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the registered owner or his/her agent to request a hearing, as described in the Vehicle Impound Hearings Policy.

502.7 TOWING FOR EXPIRED REGISTRATION

Prior to a member removing a vehicle that is found to have expired registration for more than six months, the member shall verify that no current registration exists with the Department of Motor Vehicles (DMV). If current registration exists with the DMV, the vehicle shall not be removed (Vehicle Code § 22651(o)(1)(A)).

Vehicle Impound Hearings

503.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

503.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the Banning 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) and Vehicle Code § 22852(a)).

The on-duty Watch Commander will conduct all scheduled post-storage impound hearings and the appropriate documentation will be completed. If the on-duty Watch Commander is unavailable during the time of a scheduled appointment, it will be the responsibility of the Watch Commander to make appropriate arrangements to cover the appointment.

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)).

503.2.1 HEARING PROCEDURES

The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(b)). The Traffic Sergeant will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code § 22851.3(e)(2); Vehicle Code § 22852(d)).

Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with the Department.

After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded (Vehicle Code §14602.6(b); Vehicle Code § 14602.8(b)).

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Vehicle Impound Hearings

Aside from those mitigating circumstances enumerated in the Vehicle Code, the registered owner's lack of actual knowledge that the driver to whom the vehicle was loaned was not validly licensed may constitute a mitigating circumstance under Vehicle Code § 14602.6(b) or 14602.8(b), warranting release of the vehicle. This mitigating circumstance exception is not limited to situations where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

The legislative intent and this department's policy is to prevent unlicensed driving pursuant to Vehicle Code §14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

- (a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.
 - 1. If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.
- (b) If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Department's expense (Vehicle Code § 22852(e)).
- (c) If a decision is made that reasonable grounds for storage have not been established or sufficient mitigating circumstances exist, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the appropriate Division Commander. The hearing officer will recommend to the appropriate Division Commander that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.

Impaired Driving

504.1 PURPOSE AND SCOPE

This policy provides guidance to those [department/office] members who play a role in the detection and investigation of driving under the influence (DUI).

504.2 POLICY

The Banning 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.

504.2.1 E-PAS

- (a) Only officers that have been provided training as required under Title 17 section 1221.4 (a) (3) will be allowed to operate the E-PAS.
- (b) One E-PAS will be kept in the station. It will be located in the evidence room next to the CAL-ID fingerprinting computer. That E-PAS will be kept in the station for the purpose of conducting DUI breath test at this facility. The only time this E- PAS will be placed in the field is with the approval of the Chief of Police, the Operations Commander or the Traffic Supervisor. Examples of placement in the field would include a DUI checkpoint or DUI sweep.
- (c) Other E-PAS devices will be stored in the evidence room and left in the charging mode unless it is to be used in the field by patrol officers. There is instruction/checklist sheet in the box of this E-PAS that will guide the officer through the test process.
- (d) The E-PAS is required to be calibrated every ten days as provided by law. The E-PAS will be calibrated on every Tuesday. The Evidence Technician or his/her designee will conduct the weekly calibrations providing they have received the training. Personnel who have not been trained as a coordinator (personnel that received additional training by DOJ) will not conduct any accuracy checks on the E-PAS.
- (e) Officers will not use there own DL or conduct tests at random with these because all information is logged at DOJ Sacramento and the District Attorneys Office. The information will then indicate that the test subject was stopped and contacted for DUI.
- (f) Personnel using the E-PAS will only use the E-PAS card that was provided to them. Personnel will not use another officer's card.
- (g) When an officer makes an arrest for DUI and uses the E-PAS, that officer will enter the printouts into evidence.
- (h) If an officer notices a malfunction or is having problems with the E-PAS, notify the Evidence Technician or the Traffic Supervisor.

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504.3 INVESTIGATIONS

Officers should not enforce DUI laws to the exclusion of their other duties unless specifically assigned to DUI enforcement. All officers are expected to enforce these laws with due diligence.

The Traffic Sergeant will develop and maintain, in consultation with the prosecuting attorney, report forms with appropriate checklists to assist investigating officers in documenting relevant information and maximizing efficiency. Any DUI investigation will be documented using these forms. Information documented elsewhere on the form does not need to be duplicated in the report narrative. Information that should be documented includes, at a minimum:

- (a) The field sobriety tests (FSTs) administered and the results.
- (b) The officer's observations that indicate impairment on the part of the individual, and the officer's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
- (c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
- (d) Information about any audio and/or video recording of the individual's driving or subsequent actions.
- (e) The location and time frame of the individual's vehicle operation and how this was determined.
- (f) Any prior related convictions in California or another jurisdiction.

504.4 FIELD TESTS

The Traffic Sergeant should identify standardized FSTs and any approved alternate tests for officers to use when investigating violations of DUI laws.

504.5 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.
- (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).

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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.

504.5.1 CHOICE OF TESTS

Officers shall respect a viable choice of chemical test made by an arrestee, as provided for by law (e.g., breath will not be acceptable for suspected narcotics influence).

A person arrested for DUI has the choice of whether the test is of 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)).

504.5.2 BREATH SAMPLES

The Traffic Sergeant should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested, and that a record of such service and testing is properly maintained.

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the Traffic Sergeant.

When the arrested person chooses a breath test, the handling officer shall advise the person that the breath-testing equipment does not retain a sample, and the person may, if desired, provide a blood or urine specimen, which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614).

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)).

504.5.3 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (Vehicle Code § 23158). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

Officers should inform an arrestee that if 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.

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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.

504.5.4 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).

504.5.5 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).

504.5.6 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).

504.6 REFUSALS

When an arrestee refuses to provide a viable chemical sample, officers should:

- (a) Advise the arrestee of the requirement to provide a sample (Vehicle Code § 23612).
- (b) Audio- and/or video-record the admonishment when it is practicable.
- (c) Document the refusal in the appropriate report.

504.6.1 BLOOD SAMPLE WITHOUT CONSENT

A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained (Penal Code § 1524).

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- (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.

504.6.2 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.
 - 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.

504.6.3 FORCED BLOOD SAMPLE

If a person indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond. A supervisor shall be present whenever blood is forcibly extracted from a person who is uncooperative and has refused a chemical test. A supervisor shall

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be present whenever blood is forcibly extracted from a person who is uncooperative and has refused a chemical test.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the person to submit to such a sample without physical resistance. This dialogue should be recorded on audio and/or video if practicable.
- (d) Ensure that the withdrawal is taken in a medically approved manner.
- (e) Ensure the forced withdrawal is recorded on audio and/or video when practicable.
- (f) Monitor and ensure that the type and level of force applied is reasonable under the circumstances:
 - 1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
 - 2. In misdemeanor cases, if the suspect becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
 - 3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood being withdrawn may be permitted.
- (g) Ensure the use of force and methods used to accomplish the blood sample draw are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

504.6.4 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)).

504.7 RECORDS BUREAU RESPONSIBILITIES

The Records Supervisor will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

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504.8 ADMINISTRATIVE HEARINGS

The Records Supervisor will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to DMV.

Any officer who receives notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

An officer called to testify at an administrative hearing should document the hearing date and DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified.

504.9 ARREST AND INVESTIGATION

504.9.1 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.

504.9.2 OFFICER RESPONSIBILITIES

The officer serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):

- (a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver's license to the Department of Motor Vehicles (DMV).
- (b) Forward a sworn report to DMV that contains the required information in Vehicle Code § 13380.
- (c) Forward the results to the appropriate forensic laboratory if the person submitted to a blood or urine test.

Traffic Citations

505.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

505.1.1 NON-TRAFFIC CITATIONS

All non-traffic related citations will be administered in the same manner as traffic citations under this policy.

505.2 RESPONSIBILITIES

The Field Operations Division Lieutenant shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Administrative Secretary shall be responsible for the supply and accounting of all traffic citations issued to employees of the Police Department.

505.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this [department/office] do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued (Vehicle Code § 40500(d)). Any request from a recipient to dismiss a citation shall be referred to the Traffic Bureau Manager. Upon a review of the circumstances involving the issuance of the traffic citation, the Traffic Bureau Manager may request the Patrol 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. Upon dismissal of the traffic citation by the court, the officer shall notify his/her immediate supervisor of the circumstances surrounding the dismissal and shall complete any paperwork as directed or required. The citation dismissal shall then be forwarded to the Patrol Division Commander for review.

505.3.1 CITATIONS ISSUED WITHOUT PROOF OF IDENTIFICATION

If an officer issues a citation and the driver cannot provide a driver's license or some other form of valid picture identification, the officer shall obtain a thumb print on f the driver on the back of the citation to avoid a violation of Penal Code § 529.

505.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed, but not signed by the violator. The citation and copies shall then be forwarded to the Records Bureau for filing.

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No employee shall void a traffic citation after it has been signed by the violator without the expressed permission of the Chief of Police or his/her designee.

505.5 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 the Records Bureau. The Records Bureau shall prepare a letter of correction to the court having jurisdiction and to the recipient of the citation.

505.6 DISPOSITION OF TRAFFIC CITATIONS

The court and file copies of all traffic citations issued by members of the Police Department shall be forwarded to the Records Bureau.

Upon separation from employment with the Police Department, all employees issued traffic citations books shall return any unused citations to the Administration.

505.7 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE

Disposition of notice of parking violation appeals is conducted pursuant to Vehicle Code § 40215.

505.7.1 APPEAL STAGES

Appeals may be pursued sequentially at three different levels:

- (a) Administrative reviews are conducted by the the Turbo Data Systems, Inc who will review written/documentary data. Requests for administrative reviews are available at the front desk or from the Watch Commander. 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.

505.7.2 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.

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- (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).

505.7.3 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.

505.8 JUVENILE CITATIONS

Completion of traffic citation forms for juveniles may vary slightly from the procedure for adults. The juvenile's age, place of residency, and the type of offense should be considered before issuing the juvenile a citation.

Disabled Vehicles

506.1 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.

506.2 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.

506.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by [department/office] personnel will be contingent on the time of day, the location, the availability of [department/office] resources, and the vulnerability of the disabled motorist.

506.3.1 MECHANICAL REPAIRS

[Department/Office] 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.

506.3.2 RELOCATION OF DISABLED VEHICLES

The relocation of disabled vehicles by members of this [department/office] 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.

506.3.3 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/office] member may stay with the disabled motorist or transport him/her to a safe area to await pickup.

506.4 PUBLIC ACCESS TO THIS POLICY

This written policy is available upon request.

72-Hour Parking Violations

507.1 PURPOSE AND SCOPE

This policy provides procedures for the marking, recording, and storage of vehicles parked in violation of the Banning City Ordinance regulating 72-hour parking violations and abandoned vehicles under the authority of Vehicle Code § 22669.

507.2 MARKING VEHICLES

Vehicles suspected of being in violation of the City of Banning 72-Hour Parking Ordinance shall be marked and noted on the Banning Police Department "Violation Notice" (form P.D. 88). No case number is required at this time.

A written notice of 72-hour parking violation should be placed on the vehicle. Any deviation in this notice shall be noted on the Violation Notice.

If a marked vehicle has been moved or the markings have been removed during a 72-hour investigation period, the vehicle shall be re-marked for the 72-hour parking violation and a new Violation Notice shall be completed.

Parking Citations for the 72-Hour Parking Ordinance shall be not issued when the vehicle is stored for the 72-hour parking violation.

507.2.1 MARKED VEHICLE FILE

The Traffic Bureau shall be responsible for maintaining a file for all Marked Vehicle Cards.

The Traffic Bureau shall be responsible for assigning the follow up investigation of all 72-hour parking violations noted on the Marked Vehicle Cards.

507.2.2 VEHICLE STORAGE

Any vehicle in violation shall be stored by the authorized towing service and a vehicle storage report (CHP form 180) shall be completed by the officer authorizing the storage of the vehicle.

The storage report form shall be submitted to the Records Bureau immediately following the storage of the vehicle. It shall be the responsibility of the Records Bureau to immediately notify the Stolen Vehicle System (SVS) of the Department of Justice in Sacramento (Vehicle Code § 22851.3(b)). Notification may also be made to the National Law Enforcement Telecommunications System (NLETS)(Vehicle Code § 22854.5).

Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Records Bureau to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice to all such individuals shall be sent first-class or certified mail pursuant to Vehicle Code § 22851.3(d).

Employee Involved Traffic Collisions

508.1 PURPOSE AND SCOPE

To ensure accurate documentation and review of all occurrences resulting in personal injury or damage to Police Department owned or leased police vehicles.

508.2 COLLISION DEFINITION:

Criteria for determining whether or not a collision has occurred should primarily include the location of the occurrence and the presence of injuries. All substantiated collisions, as defined in the CHP Collision Report Manual, shall necessitate the completion of a traffic collision investigation in compliance with Departmental policy and the CHP Collision Report Manual. A miscellaneous report of collision or damage circumstances shall be required in all cases of personal injury or damage to City property when a collision is not substantiated, (e.g., non injury or private property). In all instances, an Incident Report will be completed.

Documentation of all collisions and damage to police vehicles shall be the responsibility of involved personnel, assigned investigator; and Watch Commander/Supervisor. Initiation of the investigation or report process will reside with the involved party. All reports must be completed in accordance with the following guidelines:

508.3 TRAFFIC COLLISION INVOLVING A CITY VEHICLE

508.3.1 DEFINITIONS

- (a) A police vehicle is any Police Department owned or leased vehicle driven by or under the control of any Police Department employee.
- (b) A collision is an unintended event that produces damage or injury. The words "collision" and "accident" are synonymous.

508.3.2 COMPLETE INVESTIGATION REQUIRED

A collision report is required for collisions occurring if on:

- (a) Roadway, street, highway or alley.
- (b) Public Property.
- (c) Private property with injury.

508.3.3 MISCELLANEOUS REPORT REQUIRED

A miscellaneous report is required for collisions occurring if:

- (a) They are a non-injury collision on private property.
- (b) Anytime a vehicle sustains repairable damage, a collision investigation is not required. This includes:
 - 1. Objects thrown at a unit.

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2. Unseen objects or holes struck.
3. Legal intervention.
4. Assault with a deadly weapon on a police department employee in a City vehicle.
5. The intentional ramming of an unoccupied vehicle while being used on police business.

508.3.4 FORMAT

- (a) Investigation required.
 1. Completion of CHP 555 form.
 2. Scene diagram.
- (b) Miscellaneous report required (memorandum).
 1. Detailed statement of circumstances.
 2. Report to be completed by the involved officer and reviewed by the Watch Commander.
- (c) Following approval, all collision Investigations and vehicle damage reports along with a completed Incident Report shall be referred to:
 1. The Division Commander.
 2. Records (original police report with copy of incident)

508.3.5 INVESTIGATION RESPONSIBILITY

When a City owned or leased vehicle is involved in a traffic collision, the involved employee shall promptly notify a supervisor. A traffic collision report shall be filed with the agency having jurisdiction.

For collisions within the City of Banning:

- (a) Non-Injury or Minor Damage Collisions - Non-injury or minor property damage collisions involving Police Department vehicles within the City should be investigated by the Banning Police Department.
 1. Should the Watch Commander/Supervisor determine that there is a necessity for another jurisdiction to investigate the incident, he/she may request the California Highway Patrol or a neighboring police jurisdiction to conduct the investigation.
- (b) Injury or Major Damage.
 1. Injury or major property damage collisions involving Police Department vehicles within the City should be investigated by the California Highway Patrol or a neighboring police agency.
- (c) For collisions in jurisdictions outside the City of Banning:

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1. When a Police Department vehicle is involved in a collision in a jurisdiction other than the City of Banning, the agency responsible for that jurisdiction should be requested to take the collision report. An officer designated by the Watch Commander/Supervisor should be dispatched to the scene to monitor the investigation, assist as needed, and prepare any additional reports necessary. If the involved jurisdiction declines or is unable to take the collision report, it should be prepared as indicated in § 525.35 (b) 1.
- (d) Collisions involving a private passenger vehicle operated by an employee, when the vehicle use is at the request or direction of a supervisor and is in the performance of the employee's duties, shall be a liability of the Banning Police Department, not the vehicle owner. Consideration should be given to an outside agency handling the collision investigation report (Insurance Code § 488.5). The employee involved in the collision shall complete the City's vehicle collision form. If the employee is incapable, the supervisor shall complete the form. Any damage to a vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in memorandum format and forwarded to the shift sergeant. An administrative investigation will be conducted to determine if there is any vehicle abuse or misuse. If it is determined that misuse or abuse was a result of negligent conduct or operation, appropriate disciplinary action may result.

508.3.6 COLLISION REVIEW

A review of all collisions involving Police Department vehicles will be conducted by the appropriate Division Lieutenant.

- (a) Responsibilities - Review all collisions involving City vehicles and Department personnel.
 1. Review miscellaneous reports where there has been extensive property damage.
 2. Report case findings to the Chief of Police.
 3. Report finding and recommendations to the Chief of Police regarding deficiencies with policies, procedures and/or training concerning the safe and proper use of City vehicles.
 4. Maintain a file of all cases reviewed and dispositions.
 5. When a collision is determined to be preventable, the involved driver may be subject to disciplinary action pursuant to Department policy. The amount and type of discipline will vary according to the circumstances of the collision and degree of negligence involved.

Repossessions

509.1 PURPOSE AND SCOPE

It is the policy of the Banning Police Department to establish the responsibility of the police officer's role as a keeper of the peace while persons are engaged in the business of repossessing personal property.

Although the traditional practice of police departments, has been to regard repossession conflicts as civil only, very often such disputes involve a misdemeanor or felony violation of the Penal Code or result in some type of violence. It is important, therefore, for police officers to be aware of both the practical and legal issues involved in a repossession dispute in order to prevent these conflicts from escalating into violent confrontations. An officer who understands the basic civil and criminal law in this area can be effective in mediating disputes without the occurrence of violence or the necessity for arrests.

509.1.1 OBJECTIVE

- (a) The officer's objective, when confronted with a typical repossession dispute, is not to make an arrest but try to achieve a solution to the conflict by explaining to each party what conduct is or is not lawful.
- (b) The officer will not assist, under any circumstances, in the repossession of personal property by the reposessor.
- (c) A repossession has occurred only when the reposessor has taken control of the property.
- (d) Property that has already been repossessed, legally or illegally, prior to the officer's arrival becomes a civil matter between the consumer and the parties involved in the repossession.

509.2 VIOLATIONS

The officer must also be aware of the occurrence of violations of the Penal Code prior to his/her arrival which have resulted from actions of a reposessor while repossessing property. If the officer's investigation determines that a crime has occurred, a crime report shall be completed and an arrest is lawful if that crime warrants an arrest to be made at the scene or continuing investigation.

Requests for Re-examination of Drivers

510.1 PURPOSE AND SCOPE

The purpose of this order is to establish guidelines for requesting reexamination of drivers that appear to be physically or mentally incapable of safely operating a motor vehicle.

510.2 POLICY

An officer detecting a person who appears to be incompetent, physically or mentally disabled or suffers from disease or other conditions that prevent him/her from exercising reasonable and ordinary care over a motor vehicle will complete the appropriate forms to request a reexamination by the Department of Motor Vehicles.

510.3 DEPARTMENT OF MOTOR VEHICLE REQUIREMENTS

Officers shall comply with the guidelines as outlined in §§ 21061 and 21062 of the Vehicle Code as it applies for submission of reexamination requests.

510.4 RE-EXAMINATION NOTICES

Re-examination notices shall be legible and submitted on DMV Form 412. The form shall be transmitted to the Department of Motor Vehicles before the end of the next working day pursuant to Vehicle Code § 21062.

Use of Speed Measuring Devices

511.1 PURPOSE AND SCOPE

The purpose of this order is to establish guidelines for the operation of the Department's speed enforcement measuring devices.

511.2 POLICY

The Department will utilize radar/Lidar in high or potentially high accident locations when speed is a factor; in areas where speed limit violations are prevalent; in response to citizen complaints concerning speeding motorists; and to conduct traffic volume and speed percentile studies and radar street surveys.

Radar and/or any other electromechanical speed measuring devices must be deployed with the safety of the officer in mind at all times.

511.3 USE OF RADAR

All officers utilizing radar must successfully complete the basic operator training program and receive certification prior to utilizing departmental speed measuring devices.

511.3.1 RADAR UNIT OPERATION

The following procedures shall be followed:

- (a) The radar unit must be properly installed and connected to the appropriate power supply.
- (b) The effective range of the particular unit must be thoroughly understood by the operator so visual observations can support the speed meter readings.
- (c) The radar location will be conducive to the effective and safe operation of the radar.
- (d) The radar unit will be properly calibrated to insure accuracy in checking speed prior to use at each location. The calibration will be confirmed.
- (e) All radar units will comply with all local, state and federal regulations.
- (f) All radar units utilized by the Department shall meet or exceed the specifications of the National Highway Safety Administration.
- (g) Any radar unit found to be malfunctioning shall be removed from service immediately, and a repair slip filled out on the unit. The unit will be forwarded to the Division Commander.
- (h) Radar will only be used on highways and streets that have been surveyed pursuant to Vehicle Code § 40802, within the last five years, and whose prima facie speed limit has been supported by an engineering or traffic survey.
- (i) Radar can be used on local streets or roads that provide primary access to abutting residential property if they meet the following criteria (Refer § 40802 (b) Vehicle Code):

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Use of Speed Measuring Devices

1. Roadway width of not more than 40 feet.
 2. Not more than one-half mile of uninterrupted length. Interruption shall include official traffic control devices as defined in § 445.
 3. Not more than one traffic lane in each direction.
- (j) Radar enforcement during late night and early morning hours is discouraged but may be used in high accident locations where speed is a factor.
- (k) All officers are cautioned not to place the standard radar gun at any time in their lap, or rest it between their legs.

511.4 PROCEDURES FOR CHECKING EQUIPMENT IN AND OUT

To prevent any problems concerning lost or damaged equipment, the Traffic Bureau shall maintain control over the radar guns. The following guidelines shall be adhered to:

- (a) Officers using the radar units will sign the equipment in-and-out in the "Equipment Sign-out Log."
- (b) Radar units will not be left in the units. The equipment shall be checked in by the end of each watch.
- (c) Missing or damaged equipment shall be immediately reported to a supervisor.

Community Release of Persons Arrested for Driving Under the Influence

512.1 PURPOSE AND SCOPE

To establish procedures for the community release, in lieu of booking at a jail facility, persons arrested for operating a motor vehicle while under the influence of alcohol.

512.2 POLICY

The Department will implement a program of "Community Release" of persons arrested for Driving Under the Influence of Alcohol (D.U.I.) who meet the specific criteria as outlined in this general order.

The release of the arrestee shall be at the discretion of the arresting officer or a supervisor.

512.3 COMMUNITY RELEASE PROCEDURES

A person arrested for operating a motor vehicle while under the influence of alcohol may be released on his/her written promise to appear in Court if the following criteria is met.

- (a) The person is properly identified and has proof of residency in the area.
- (b) The person is not so intoxicated that he/she could be a danger to himself or others.
- (c) The person's Blood Alcohol Level is .10 or lower, as measured by the Intoxilyzer.
- (d) The person completes a written waiver supplied by this Department.
- (e) The person signs a written promise to appear in Court.
- (f) The person is cooperative during the arrest procedures.
- (g) The person agrees to be placed into the custody of a responsible adult who is able to respond to the Banning Police Department within 45 minutes from the time of the intoxilyzer test.

512.4 OFFICER RESPONSIBILITIES

- (a) The arresting officer shall not offer or mention the community release option to the arrested person prior to the completion of all tests and is satisfied that the person is able to make a competent decision regarding his/her responsibilities.
- (b) The person arrested shall be photographed and fingerprinted in accordance with the normal booking process. This will be done at the Banning Police Department.

Handicapped Placards

513.1 PURPOSE AND SCOPE

To establish a procedure for enforcement of Handicapped Placard misuse.

513.2 POLICY

It shall be the policy of the Banning Police Department to enforce § 22507.8(a) of the Vehicle Code, handicapped parking only.

513.3 VEHICLE CODE § 22511.5

A disabled person can park their vehicle for unlimited periods of time in any time restricted zone as long as the parked vehicle displays a disabled person placard on its dashboard. Those disabled person placards displayed on a vehicle dashboard which exhibits any of the following characteristics is possibly fraudulent:

- (a) Obvious Xerox copy of a legally issued placard.
- (b) Different number sequence and letter series than observed on placards of the same color.
- (c) Items on the dashboard partially covering the number and letter series on the placard.
- (d) Any observed placard which appears abnormal to the officer.

513.4 OFFICER RESPONSIBILITY

- (a) Whenever a fraudulent disabled parking placard is encountered, the officer should:
 - 1. Establish ownership of the vehicle and placard via DMV check.
- (b) If the operator of the vehicle is present, the vehicle is not locked, and the placard is fraudulent or misused:
 - 1. Seize the placard and give the operator a receipt. (A note on the citation is sufficient).
 - 2. Cite the operator § 4463(c) Vehicle Code.
 - 3. Write an incident report.
 - 4. Book the placard into evidence.
- (c) If the operator is not present, vehicle is not locked, and the placard is fraudulent:
 - 1. Seize the placard and leave a receipt. (A business card with a case number, placard number and the fact that the placard was seized).
 - 2. Write an incident report.
 - 3. Cite the owner of the vehicle § 4463 (c) Vehicle Code.
 - 4. Attach the parking citation to the incident report.

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5. Book the placard into evidence.
- (d) If the operator is not present, vehicle is locked, and placard is fraudulent:
 1. DO NOT open the vehicle.
 2. Photograph the placard - while on the dashboard
 3. Write an incident report.
 4. Cite the owner of the vehicle § 4463 (c) Vehicle Code
 5. Attach the parking citation to the incident report.

513.5 UNABLE TO ESTABLISH OWNERSHIP

If an officer is unable to establish ownership of the vehicle, cite the vehicle for violating § 22507.8 (a) or (b) Vehicle Code or any other applicable Vehicle Code section.

Vehicle Over the Side and T/C Involved Vehicles Found Unoccupied

514.1 PURPOSE AND SCOPE

The purpose of this General Order is to set guidelines that ensures a systematic and thorough search is conducted when officers are assigned to handle incidents involving vehicles reported over the side and vehicles involved in traffic accidents where the occupants can not be immediately located.

514.2 FIELD OFFICERS

- (a) Field Officers receiving a call of a vehicle over the side or a vehicle involved in a T/C where the occupants can not be immediately located shall respond to the area it was reported and conduct a systematic and thorough search. The officer assigned to the incident shall ensure the following procedures are followed:
 - 1. Responding officers should consider the need to respond additional resources
 - 2. Fire Department
 - 3. Ambulance
 - 4. Other BPD Officers
 - 5. BPD Administrative Staff
 - 6. Allied Agencies (I.E. Police, Sheriff, CHP)
 - 7. Aircraft
- (b) While responding to the scene, the responding officer should attempt to gain as much information as possible as to the circumstances of the call. Information that should be requested and considered should include, but is not limited to:
 - 1. What is the exact location where the incident occurred?
 - 2. Are there any specific landmarks that could assist responding persons in locating the incident?
 - 3. Who is the reporting person (Name, address, phone numbers).
 - 4. Is the reporting person familiar with the area?
 - 5. What is the vehicle description?
 - 6. Did the vehicle hit anything prior to leaving the roadway, which would have left physical evidence on the roadway?
- (c) Once in the area where the incident was reported, responding officers shall conduct a systematic and thorough search of the entire area. The search shall include exiting the patrol vehicle and physically checking over the side at locations where there is any

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Vehicle Over the Side and T/C Involved Vehicles Found Unoccupied

possibility the vehicle may have left the roadway. When unoccupied vehicles involved in T/C's are located, officers shall exit the patrol vehicle and search the area on foot to locate occupants that may have been ejected from the vehicle or who may have crawled or walked away from the collision scene.

1. If the vehicle or occupants are not located, the officer assigned the call shall personally attempt to contact the reporting person for further details. If feasible, the officer should also request that the reporting person meet them, in the area of the call, to clarify the location and events. If the Reporting Party cannot be located the attempt to contact shall be recorded on the incident log in RIMS.
 2. The Officer shall also attempt to contact the Registered Owner of the vehicle. If the Registered Owner cannot be located that attempt to contact shall be recorded on the incident log in RIMS.
- (d) In the areas where extremely rough terrain will hamper search efforts, the responding officer should immediately consider requesting Allied Agency Air Support.
- (e) Once all responding agencies are satisfied that all available means have been exhausted to locate the vehicle and its occupants, the search may be terminated with the authorization of the officer's immediate supervisor.
- (f) The officer, who was initially assigned to the incident, is responsible and shall ensure that thorough notes are taken and documented in RIMS as to the steps taken to locate the vehicle and/or the occupant(s).

514.3 SHIFT SUPERVISOR

The shift supervisor shall ensure that a systematic search was made for the vehicle and/or the occupant(s). The supervisor shall have the sole authority to terminate the search. If the vehicle and/or the occupants are not located, the shift supervisor shall complete a briefing item for the purpose of disseminating the information regarding the event to all personnel and notate it in the W/C log for administration review.

Bicycle Licensing

515.1 PURPOSE AND SCOPE

The purpose of this General Order is to set guidelines for the licensing of bicycles.

515.2 GENERAL

- (a) The Chief of Police or his/her designee shall have the authority and responsibility to establish and maintain procedures for the Bicycling Licensing Program. The procedures shall conform to § 39000 et seq. of the Vehicle Code.
- (b) The licensing of bicycles can be performed by the following:
 - 1. Volunteers in Police Service (VIPS)
 - 2. Community Service Officer
 - 3. Any other person so designated

Chapter 6 - Investigation Operations

Investigation and Prosecution

600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

600.2 POLICY

It is the policy of the Banning Police Department to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

600.3 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.

600.4 CUSTODIAL INTERROGATION REQUIREMENTS

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

600.4.1 AUDIO/VIDEO RECORDINGS

Any custodial interrogation of an individual who is suspected of having committed any violent felony offense should be recorded (audio or video with audio as available) in its entirety. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Detective Bureau supervisor. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

600.4.2 MANDATORY RECORDING OF ADULTS

Any custodial interrogation of an adult who is suspected of having committed any murder shall be recorded in its entirety. The recording should be video with audio if reasonably feasible (Penal Code § 859.5).

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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.
- (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/Office] shall maintain an original or an exact copy of the recording until a conviction relating to the interrogation is final and all appeals are exhausted or prosecution is barred by law (Penal Code § 859.5).

600.5 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.

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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 NON-SWORN MEMBER RESPONSIBILITIES

A non-sworn member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an officer shall be requested.

600.6 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.

600.7 COMPUTERS AND DIGITAL EVIDENCE

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, officers should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

600.8 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/office]. 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/office] equipment.

Information obtained via the internet should not be archived or stored in any manner other than [department/office]-established record keeping systems (see the Records Maintenance and Release and the Criminal Organizations policies).

600.8.1 ACCESS RESTRICTIONS

Information that can be accessed from any [department/office] 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.

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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.

600.8.2 INTERCEPTING ELECTRONIC COMMUNICATION

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Officers should seek legal counsel before any such interception.

600.9 CELLULAR COMMUNICATIONS INTERCEPTION TECHNOLOGY

The Investigation 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/Office] 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/office] security procedures, the [department/office]'s usage and privacy procedures and all applicable laws.

600.10 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

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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.

600.11 ANTI-REPRODUCTIVE RIGHTS CRIMES

A member should take a report any time a person living within the jurisdiction of the Banning 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/office] or has not been determined (e.g., online harassment).
- (b) Providing the victim with the appropriate information, as set forth in the Victim and Witness Assistance Policy. Members should encourage the person to review the material and should assist with any questions.

A report should also be taken if a person living outside [department/office] 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/office] 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/office] use and are specific to this type of investigation.

The Detective Bureau supervisor should provide the Records Supervisor with enough information regarding the number of calls for assistance and number of arrests to meet the reporting requirements to the California Department of Justice as required by Penal Code § 13777. See the Records Bureau Policy for additional guidance.

600.12 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/Office] as lost or stolen, the Detective Bureau 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/Office] (Penal Code § 28220).

600.12.2 RELINQUISHMENT OF FIREARMS VERIFICATION

The Detective Bureau 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/Office] who have become a prohibited possessor of a firearm registered in their

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name and have not provided proof of relinquishment. The member shall document steps taken to verify that the individual is no longer in possession of firearms and provide the information to the Records Bureau for preparation of a quarterly report to the California DOJ (Penal Code § 29813) (see the Records Bureau Policy for additional guidance).

Criminal Investigations

601.1 PURPOSE AND SCOPE

The policy of the Banning Police Department is to conduct thorough investigations of criminal activities with the following objectives:

- (a) Arrest and prosecution of offenders,
- (b) Recovery of stolen property; and
- (c) Seizure of contraband.

601.1.1 CRIMINAL INVESTIGATION OBJECTIVES

These objectives are to be achieved through coordinated efforts of patrol officers and detectives.

- (a) Patrol officers are responsible for the entire investigation of all misdemeanor crimes (with certain exceptions relating to vice investigations), and of those felony crimes not specifically assigned to the Detective Unit.
- (b) Patrol officers are responsible for the preliminary investigation of felony crimes for which the Detective Unit has final responsibility.
- (c) The Detective Unit has responsibility for the follow-up investigation specified misdemeanor and felony offenses, and for the entire investigation of specified offenses.

601.2 CRIMINAL INVESTIGATION DEFINITIONS

601.2.1 PRELIMINARY INVESTIGATION

A preliminary investigation consists of those activities of the first officer(s) involved in a freshly reported or detected crime. The objective of a preliminary investigation is to obtain all evidence and information that is immediately available from the crime scene and from those present and/or involved. A preliminary investigation consists of the following:

- (a) Interview of victim(s);
- (b) Interview of witness(es) present;
- (c) Collection and preservation of all physical evidence present at the scene or available from victim(s) and/or witness(es) (including medical-legal examination in appropriate cases);
- (d) A check of the neighborhood or area surrounding the crime scene for witnesses and interview(s) of any witnesses found;
- (e) Interview and interrogation of suspect(s) and arrest of suspect(s), if possible;
- (f) Entry of identifiable stolen property into appropriate computer files; and

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- (g) Preparation of reports documenting all investigative steps (including those yielding no information) and all information known to the investigating officer(s).

601.2.2 FOLLOW-UP INVESTIGATION

A follow-up investigation consists of those activities, undertaken at some time following completion of the preliminary investigation, intended to solve the reported crime. Follow-up investigation may consist of the following:

- (a) Re-interview of victim(s) and/or suspect(s);
- (b) Scientific examination or analysis of physical evidence;
- (c) Preparation of composites or artists drawings of suspects;
- (d) Teletyping of suspect, crime and M.O. information to other law enforcement agencies;
- (e) Review of crime information from other agencies for similar offenses and/or suspect information;
- (f) Identification, location and interview of previously-unknown persons who may have information relevant to the crime;
- (g) Consult with experts in appropriate fields to obtain information, specific leads, or avenues of investigation;
- (h) Confer with other components of the criminal justice systems for possible suspect information (e.g., Parole, Probation, State Prison);
- (i) Coordinate multi-jurisdictional investigations with other agencies;
- (j) Suspect interview; or
- (k) Other investigative steps.

601.2.3 COMPLETE INVESTIGATION

A complete investigation is an investigation wherein all preliminary contacts/interviews, collection of evidence and all reasonable follow-ups appropriate to the particular case, has been done or attempted. Where all reasonable leads, and/or information has been reviewed, and exhausted in the furtherance of solving or attempting to solve a crime and where all information obtained from such investigation leads to the closure of case either by criminal filing with the District Attorney's Office or by insufficient evidence for prosecution.

601.2.4 CASE SCREENING

Case screening is a process by which crime reports are reviewed by a supervisor to assess the probability of solution, given a reasonable investigative effort. Certain factors and conditions have been identified which, if present, are likely to yield important information. The reviewing supervisor should consider the existence of one or more of these solvability when deciding whether or not to assign a case for follow-up investigation. The factors may be considered by the reviewing supervisor include:

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- (a) Suspect named;
- (b) Suspect's location;
- (c) Suspect's description;
- (d) Suspect vehicle;
- (e) Traceable stolen property;
- (f) Physical evidence;
- (g) Seriousness of the crime;
- (h) Political impact;
- (i) Community reaction;
- (j) Other similar crimes (is the current crime part of a series or trend?); and
- (k) Workload of available personnel.

601.2.5 MAJOR INVESTIGATIONS

Major investigations include:

- (a) Homicides;
- (b) Deaths in which the cause or manner of death is not readily apparent;
- (c) Cases in which a police officer or elected official is a suspect;
- (d) Assaults on police officers resulting in major or life-threatening injuries to the officer;
- (e) Missing children cases in which the child is less than 5 years old when circumstances indicate the necessity of an immediate investigation; and
- (f) Other cases which, by virtue of their importance, complexity, political significance or other factors require immediate investigation by specialists with resources not readily available to patrol officers.

601.3 INVESTIGATIVE RESPONSIBILITIES

- (a) Patrol officers are responsible for the entire investigation of the following crimes:
 - 1. All misdemeanors (except as noted herein); and
 - 2. Those felony crimes not specifically the responsibility of the Detective Unit.
- (b) Patrol officers are responsible for the preliminary investigation of the following crimes:
 - 1. Misdemeanor crimes and misdemeanor sex crimes; and
 - 2. Felony crimes for which responsibility for follow-up investigation is assigned, by policy, to the Detective Unit.
- (c) Detectives are responsible for the entire investigation of the following crime

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1. Major crimes as defined in § 601.25.
- (d) Detectives are responsible for the follow-up investigation of the following crimes and attempted crimes:
1. Misdemeanor sex crimes;
 2. Felony crimes against persons (including Penal Code § 487.2; but excluding robberies of bicycles, skateboards or similar property between juvenile victim(s) and suspect(s) in which no injuries occur and in which no shots are fired);
 3. Commercial burglaries;
 4. School burglaries;
 5. Residential burglaries in which the loss exceeds \$1,000;
 6. Arsons, bombs, and destructive devices;
 7. Auto thefts;
 8. Vice cases;
 9. Other felony or misdemeanor investigations requiring follow-up investigation outside the immediate Banning area; and
 10. Other unusual or complicated cases beyond the expertise of available patrol personnel (with the approval of the Division Lieutenant).
- (e) When a major crime (as defined in this general order) is reported or detected, the following shall occur:
1. The first officer(s) on the scene shall protect the crime scene, locate and identify witnesses, and take all other necessary steps to ensure that evidence, information, or potential witnesses are not lost prior to the assumption of control of the investigation by the Detective Unit;
 2. The on-duty supervisor or on-call supervisor shall respond to the scene and ensure that the procedures noted above are completed. He/she shall direct the responding officers and summon necessary additional resources;
 3. The supervisor shall make available the resources (as practical) necessary to comply with Section E.1. He/she shall notify the Detective Unit of the incident at the earliest possible time; and
 4. At the earliest possible time, the detective assigned shall cause a press release to be issued, giving all information available by law, except any information likely to jeopardize or interfere with the investigation. Press releases regarding major crimes shall be issued only by the Chief of Police or his/her designee.

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- (f) Investigation of drug or narcotic sales cases will be referred to the Department's Narcotics Coordinator.

601.4 SUPERVISOR RESPONSIBILITIES

- (a) A supervisor is responsible for the supervision of preliminary investigations conducted by patrol officers. They shall ensure that preliminary investigations are complete and thorough as specified in this general order. They shall provide advice, technical assistance, and expertise when requested or necessary. They shall ensure that the provisions of this general order relative to major crime investigations are followed.
- (b) Supervisors are responsible for managing criminal investigations of patrol officers assigned to their shift. They shall review the status of case investigations assigned to patrol officers, and ensure that assigned investigations are either suspended or closed in an appropriate time period.
- (c) The Detective Sergeant is responsible for reviewing all crime reports of incidents in which the responsibility for follow-up investigation rests with the Detective Unit. He shall conduct case screening and assignment. He shall review the status of case investigations assigned to detectives, and ensure that assigned investigations are either inactivated or closed in an appropriate time period. He shall provide advice, technical assistance, and expertise when requested or necessary.

601.5 NOTIFICATION OF DETECTIVES

- (a) The Detective Unit shall be notified as soon as any of the following crimes are found (or strongly suspected) to have occurred:
 - 1. Major crimes;
 - 2. In death investigations resulting in the call-in of detectives, the coroner notification will be made by the detective assigned to this investigation.
 - 3. Felony sex crimes occurring within the past 24 hours;
 - 4. Robberies in which shots were fired, or the victim sustained other than minor injuries;
 - 5. Robberies of financial institutions;
 - 6. Robberies in which the loss exceeds \$2,000;
 - 7. Kidnappings in which the victim has not been recovered;
 - 8. Child stealing in which the suspect has a record of assaulting or molesting the victim child;
 - 9. Assaults in which the victim sustains a potentially life-threatening Injury; and
 - 10. Other significant crimes requiring immediate investigative efforts beyond the available resources of the patrol forces on duty.

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- (b) With the exception of major crimes (which require immediate detective response), the decision of whether detectives shall immediately respond and conduct (or assist in) the preliminary investigation rests with a supervisor. The supervisor should consider the following factors:
 - 1. Seriousness of case;
 - 2. Detective availability and workload;
 - 3. Need for immediate follow-up;
 - 4. Patrol workload on involved shift;
 - 5. Expertise of assigned patrol officer; and
 - 6. Preference of the Supervisor.

601.5.1 PROCEDURE FOR NOTIFICATION OF DETECTIVES

- (a) Contact and obtain approval of the Detective Sergeant. If the Detective Sergeant is not available, contact and obtain approval from the Division Lieutenant in the chain of command.
- (b) Notification should be made by a Supervisor.
- (c) Upon being notified, the Detective Sergeant shall notify the Division Lieutenant.

Sexual Assault Investigations

602.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Senior and Disability Victimization 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 POLICY

It is the policy of the Banning Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

602.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

- (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.

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602.4 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.

602.5 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.

602.5.1 VICTIM RIGHTS

Whenever there is an alleged sexual assault, the assigned officer shall accomplish the following:

- (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).

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602.5.2 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/office] shall not publicly disclose the name of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293).

602.6 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately (Penal Code § 680).

602.6.1 COLLECTION AND TESTING REQUIREMENTS

Members investigating a sexual assault offense should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g). SAFE kits should be submitted to the crime lab within 20 days after being booked into evidence (Penal Code § 680).

In order to maximize the effectiveness of such testing and identify the perpetrator of any sexual assault, the assigned officer shall ensure that an information profile for the SAFE kit evidence has been created in the California Department of Justice (DOJ) SAFE-T database within 120 days of collection and should further ensure that the results of any such test have been timely entered into and checked against both the DOJ Cal-DNA database and the Combined DNA Index System (CODIS) (Penal Code § 680.3).

If the assigned officer determines that a SAFE kit submitted to a private vendor laboratory for analysis has not been tested within 120 days after submission, the officer shall update the SAFE-T database to reflect the reason for the delay in testing. The assigned officer shall continue to

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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.

602.6.2 DNA TEST RESULTS

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

- (a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, members investigating sexual assault cases shall inform the victim of the status of the DNA testing of any evidence from the victim's case (Penal Code § 680).
 - 1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
 - 2. Absent a written request, no member of this [department/office] 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

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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.

602.6.3 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT

The Evidence Room supervisor should make California standardized sexual assault forensic medical evidence (SAFE) kits available to members who may investigate sexual assault cases. Members investigating a sexual assault should use these SAFE kits when appropriate and follow related usage guidelines issued by the California Clinical Forensic Medical Training Center (Penal Code § 13823.14).

602.6.4 COLLECTION OF DNA REFERENCE SAMPLES

Reference samples of DNA collected directly from a victim of sexual assault, and reference samples of DNA collected from any individual that were voluntarily provided for the purpose of exclusion, shall be protected as provided in Penal Code § 679.12 (Penal Code § 680).

602.6.5 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 Banning Police Department, if the [Department/Office] is the investigating agency. The [Department/Office] shall retain the SAFE kit until the sexual assault survivor requests testing (Penal Code § 680).

If the [Department/Office] 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/Office]. 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/Office] and retained pursuant to [department/office] 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 Bureau supervisor should ensure the SAFE kit is sent to the crime lab for testing (Penal Code § 680).

602.7 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 Bureau supervisor.

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Classification of a sexual assault case as unfounded requires the Detective Bureau 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.

602.8 CASE REVIEW

The Detective Bureau supervisor should ensure case dispositions are reviewed on a periodic basis, at least annually, using an identified group that is independent of the investigation process. The reviews should include an analysis of:

- Case dispositions.
- Decisions to collect biological evidence.
- Submissions of biological evidence for lab testing.

The SART and/or victim advocates should be considered for involvement in this audit. Summary reports on these reviews should be forwarded through the chain of command to the Chief of Police.

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 Bureau 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.
 2. SART.
 3. Medical and legal aspects of sexual assault investigations.

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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.

Asset Forfeiture

603.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

603.1.1 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 Banning Police Department seizes property for forfeiture or when the Banning 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/office] member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and for acting as the liaison between the [Department/Office] and the assigned attorney.

Property subject to forfeiture - The following may be subject to forfeiture:

- (a) Property related to a narcotics offense, which includes (Heath and Safety Code § 11470; Health and Safety Code § 11470.1):
 - 1. Property (not including real property or vehicles) used, or intended for use, as a container for controlled substances, materials to manufacture controlled substances, etc.
 - 2. Interest in a vehicle (car, boat, airplane, other vehicle) used to facilitate the manufacture, possession for sale or sale of specified quantities of controlled substances.
 - 3. Money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, proceeds traceable to an exchange, etc.
 - 4. Real property when the owner is convicted of violating Health and Safety Code § 11366, Health and Safety Code § 11366.5 or Health and Safety Code § 11366.6 (drug houses) when the property was not used as a family residence or for other lawful purposes, or property owned by two or more persons, one of whom had no knowledge of its unlawful use.
 - 5. The expenses of seizing, eradicating, destroying or taking remedial action with respect to any controlled substance or its precursors upon conviction for the unlawful manufacture or cultivation of any controlled substance or its precursors.

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- (b) Property related to criminal profiteering (may include gang crimes), to include (Penal Code § 186.2; Penal Code § 186.3):
 - 1. Any property interest, whether tangible or intangible, acquired through a pattern of criminal profiteering activity.
 - 2. All proceeds acquired through a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity.

Seizure - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

603.2 POLICY

The Banning 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 Banning 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.

603.3 ASSET SEIZURE

Property may be seized for forfeiture as provided in this policy.

603.3.1 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.

603.3.2 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).

603.3.3 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 Bureau 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.

603.4 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.

603.5 MAINTAINING SEIZED PROPERTY

The Evidence Room Supervisor is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.
- (b) All property received for forfeiture is checked to determine if the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.

603.6 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/office]-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/Office] 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.

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- (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/office] use. These should include notice forms, a receipt form and a checklist that provides relevant guidance to officers. The forms should be available in languages appropriate for the region and should contain spaces for:
 - 1. Names and contact information for all relevant persons and law enforcement officers involved.
 - 2. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).
 - 3. A space for the signature of the person from whom cash or property is being seized.
 - 4. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure and a detailed description of the items seized.
- (g) Ensuring that officers who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins (DTBs) or [Department/Office] 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.

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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/office]'s regular inventory is in accordance with all applicable laws and consistent with the [department/office]'s use and disposition of similar property.
 - (k) Keeping a manual that details the statutory grounds for forfeitures and [department/office] procedures related to asset forfeiture, including procedures for prompt notice to interest holders, the expeditious release of seized property, where appropriate, and the prompt resolution of claims of innocent ownership (Heath and Safety Code § 11469).
 - (l) Providing copies of seized business records to the person or business from whom such records were seized, when requested (Heath and Safety Code §11471).
 - (m) Notifying the California Franchise Tax Board when there is reasonable cause to believe that the value of seized property exceeds \$5,000.00 (Health and Safety Code § 11471.5).

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and City financial directives (Health and Safety Code § 11495).

603.7 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/Office] 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).

603.7.1 RECEIVING EQUITABLE SHARES

When participating in a joint investigation with a federal agency, the Banning 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

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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.

603.8 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).

Informants

604.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

604.1.1 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 Banning Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the Banning Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

604.2 POLICY

The Banning 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/office] 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.

604.3 USE OF INFORMANTS

604.3.1 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/office] should not guarantee absolute safety or confidentiality to an informant.

604.3.2 INFORMANT AGREEMENTS

All informants are required to sign and abide by the provisions of the designated [department/office] 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.

604.3.3 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

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- (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

604.4 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, Investigation Bureau 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 Banning Police Department, and that they shall not represent themselves as such.
- (d) The relationship between [department/office] members and informants shall always be ethical and professional.
 - 1. Members shall not become intimately involved with an informant.
 - 2. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Investigation Bureau supervisor.
 - 3. Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
- (e) Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of the Investigation Bureau supervisor.
 - 1. Officers may meet informants alone in an occupied public place, such as a restaurant.
- (f) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.
- (g) In all instances when [department/office] 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.

604.4.1 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/Office]

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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/office] 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.

604.5 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/office] members or the reliability of the informant.

Informant files shall be maintained in a secure area within the Investigation Bureau. The Investigation Bureau 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, Investigation Bureau supervisor or their authorized designees.

The Investigation 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 Investigation Bureau 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.

604.5.1 FILE SYSTEM PROCEDURE

A separate file shall be maintained on each informant and shall be coded with an assigned informant control number. An informant history that includes the following information shall be prepared for each file:

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- (a) Name and aliases
- (b) Date of birth
- (c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features
- (d) Photograph
- (e) Current home address and telephone numbers
- (f) Current employers, positions, addresses and telephone numbers
- (g) Vehicles owned and registration information
- (h) Places frequented
- (i) Briefs of information provided by the informant and his/her subsequent reliability
 - 1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.
- (j) Name of the officer initiating use of the informant
- (k) Signed informant agreement
- (l) Update on active or inactive status of informant

604.6 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 Investigation Bureau supervisor will discuss the above factors with the Patrol Division Commander and recommend the type and level of payment subject to approval by the Chief of Police.

604.6.1 PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

- (a) Payments of \$500 and under may be paid in cash from a Investigation Bureau buy/expense fund.
 - 1. The Investigation Bureau supervisor shall sign the voucher for cash payouts from the buy/expense fund.

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- (b) Payments exceeding \$500 shall be made by issuance of a check, payable to the officer who will be delivering the payment.
 - 1. The check shall list the case numbers related to and supporting the payment.
 - 2. A written statement of the informant's involvement in the case shall be placed in the informant's file.
 - 3. The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
 - 4. Authorization signatures from the Chief of Police and the City Manager are required for disbursement of the funds.
- (c) To complete the payment process for any amount, the officer delivering the payment shall complete a cash transfer form.
 - 1. The cash transfer form shall include the following:
 - (a) Date
 - (b) Payment amount
 - (c) Banning Police Department case number
 - (d) A statement that the informant is receiving funds in payment for information voluntarily rendered.
 - 2. The cash transfer form shall be signed by the informant.
 - 3. The cash transfer form will be kept in the informant's file.

604.6.2 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.

604.6.3 AUDIT OF PAYMENTS

The Investigation Bureau supervisor or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

At least once every six months, the Chief of Police or the authorized designee should conduct an audit of all informant funds for the purpose of accountability and security of the funds. The funds

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and related documents (e.g., buy/expense fund records, cash transfer forms, invoices, receipts and logs) will assist with the audit process.

Eyewitness Identification

605.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this [department/office] employ eyewitness identification techniques (Penal Code § 859.7).

605.1.1 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.

605.2 POLICY

The Banning 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.

605.3 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.

605.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Detective Bureau 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.

605.5 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).

605.6 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.

605.6.1 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).

605.6.2 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).

605.7 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.

605.8 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.

605.8.1 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 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).

Brady Material Disclosure

606.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called “*Brady* information”) to a prosecuting attorney.

606.1.1 DEFINITIONS

Definitions related to this policy include:

Brady information -Information known or possessed by the Banning Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

606.2 POLICY

The Banning Police Department will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Banning Police Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The [Department/Office] will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

606.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor’s office.

If information is believed to be privileged or confidential (e.g., confidential informant or attorney-client information, attorney work product), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an officer is unsure whether evidence or facts are material, the officer should address the issue with a supervisor.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the [Department/Office] case file.

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606.4 DISCLOSURE OF PERSONNEL INFORMATION

Whenever it is determined that *Brady* information is located in the personnel file of a member of this [department/office] who is a material witness in a criminal case, the following procedure shall apply:

- (a) In the event that a *Pitchess* motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be notified of the potential presence of *Brady* information in the officer's personnel file.
- (b) The prosecuting attorney should then be requested to file a *Pitchess* motion in order to initiate an in-camera review by the court.
- (c) Any member who is the subject of such a motion shall be notified in writing that a motion has been filed.
- (d) The Custodian of Records shall accompany all relevant files during any in-camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.
- (e) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.
 - 1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

606.5 INVESTIGATING BRADY ISSUES

If the [Department/Office] receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

Warrant Service

607.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this department. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving high-risk warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by patrol officers.

607.2 POLICY

It is the policy of the Banning Police Department to balance the safety needs of the public, the safety of department members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

607.3 OPERATIONS DIRECTOR

The operations director (see the Operations Planning and Deconfliction Policy) shall review all risk assessment forms with the involved supervisor to determine the risk level of the warrant service.

The operations director will also have the responsibility to coordinate service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow guidelines in the Operations Planning and Deconfliction Policy.

607.4 SEARCH WARRANTS

Officers should receive authorization from a supervisor before preparing a search warrant application. Once authorization is received, the officer will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. He/she will also complete the risk assessment form and submit it, along with the warrant affidavit, to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

607.5 ARREST WARRANTS

If an officer reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the officer should complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations director. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

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607.6 WARRANT PREPARATION

An officer who prepares a warrant should ensure the documentation in support of the warrant contains as applicable:

- (a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime warrant execution.
- (b) A clear explanation of the affiant's training, experience and relevant education.
- (c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.
- (d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.
- (e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.
- (f) A specific description of the location to be searched, including photographs of the location, if reasonably available.
- (g) A sufficient description of the items to be seized.
- (h) Full disclosure of any known exculpatory information relevant to the warrant application (refer to the Brady Material Disclosure Policy).

607.7 HIGH-RISK WARRANT SERVICE

The operations director or the authorized designee shall coordinate the service of warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of officers deployed.

The member responsible for directing the service should ensure the following as applicable:

- (a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.
- (b) The warrant service is audio- and video-recorded when practicable and reasonable to do so.
- (c) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.
- (d) Reasonable efforts are made during the search to maintain or restore the condition of the location.

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- (e) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.
- (f) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).
- (g) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.
- (h) A copy of the search warrant is left at the location.
- (i) The condition of the property is documented with video recording or photographs after the search.

607.8 DETENTIONS DURING WARRANT SERVICE

Officers must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, officers must be mindful that only reasonable force may be used and weapons should be displayed no longer than the officer reasonably believes is necessary (see the Use of Force Policy).

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Officers should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

607.9 ACTIONS AFTER WARRANT SERVICE

The supervisor shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

607.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The operations director will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement
- Asset forfeiture procedures

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the operations director. The director should review and confirm the warrant, including

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the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The director should ensure that members of the Banning Police Department are utilized appropriately. Any concerns regarding the requested use of Banning Police Department members should be brought to the attention of the Chief of Police or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If the operations director is unavailable, the Watch Commander should assume this role.

If officers intend to serve a warrant outside Banning Police Department jurisdiction, the operations director should provide reasonable advance notice to the applicable agency, request assistance as needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy.

Officers will remain subject to the policies of the Banning Police Department when assisting outside agencies or serving a warrant outside Banning Police Department jurisdiction.

607.11 MEDIA ACCESS

No advance information regarding warrant service operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

607.12 TRAINING

The Training Sergeant should ensure officers receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.

607.13 DOCUMENTATION

Documentation related to the service of a warrant shall be maintained in accordance with the established records retention schedule.

Operations Planning and Deconfliction

608.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction and execution of high-risk operations.

Additional guidance on planning and serving high-risk warrants is provided in the Warrant Service Policy.

608.1.1 DEFINITIONS

Definitions related to this policy include:

High-risk operations - Operations, including service of search and arrest warrants and sting operations, that are likely to present higher risks than are commonly faced by officers on a daily basis, including suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

608.2 POLICY

It is the policy of the Banning Police Department to properly plan and carry out high-risk operations, including participation in a regional deconfliction system, in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

608.3 OPERATIONS DIRECTOR

The Chief of Police will designate a member of this [department/office] to be the operations director.

The operations director will develop and maintain a risk assessment form to assess, plan and coordinate operations. This form should provide a process to identify high-risk operations.

The operations director will review risk assessment forms with involved supervisors to determine whether a particular incident qualifies as a high-risk operation. The director will also have the responsibility for coordinating operations that are categorized as high risk.

608.4 RISK ASSESSMENT

608.4.1 RISK ASSESSMENT FORM PREPARATION

Officers assigned as operational leads for any operation that may qualify as a high-risk operation shall complete a risk assessment form.

When preparing the form, the officer should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems, firearm records, commercial databases and property records. Where appropriate, the officer should also submit information to these resources.

The officer should gather available information that includes, but is not limited to:

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- (a) Photographs, including aerial photographs, if available, of the involved location, neighboring yards and obstacles.
- (b) Maps of the location.
- (c) Diagrams of any property and the interior of any buildings that are involved.
- (d) Historical information about the subject of investigation (e.g., history of weapon possession or use, known mental illness, known drug use, threats against police, gang affiliation, criminal history).
- (e) Historical information about others who may be present at the location (e.g., other criminals, innocent third parties, dependent adults, children, animals).
- (f) Obstacles associated with the location (e.g., fortification, booby traps, reinforced doors/windows, surveillance measures, number and type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations).
- (g) Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service).
- (h) Other available options that may minimize the risk to officers and others (e.g., making an off-site arrest or detention of the subject of investigation).

608.4.2 RISK ASSESSMENT REVIEW

Officers will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to their supervisor and the operations director.

The supervisor and operations director shall confer and determine the level of risk. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

608.4.3 HIGH-RISK OPERATIONS

If the operations director, after consultation with the involved supervisor, determines that the operation is high risk, the operations director should:

- (a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:
 - 1. ([CRU])
 - 2. Additional personnel
 - 3. Outside agency assistance
 - 4. Special equipment
 - 5. Medical personnel
 - 6. Persons trained in negotiation
 - 7. Additional surveillance

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8. Canines
 9. Evidence Room or analytical personnel to assist with cataloguing seizures
 10. Forensic specialists
 11. Specialized mapping for larger or complex locations
- (b) Contact the appropriate [department/office] members or other agencies as warranted to begin preparation.
 - (c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.
 - (d) Coordinate the actual operation.

608.5 DECONFLICTION

Deconfliction systems are designed to identify persons and locations associated with investigations or law enforcement operations and alert participating agencies when others are planning or conducting operations in close proximity or time or are investigating the same individuals, groups or locations.

The officer who is the operations lead shall ensure the subject of investigation and operations information have been entered in an applicable deconfliction system to determine if there is reported conflicting activity. This should occur as early in the process as practicable, but no later than two hours prior to the commencement of the operation. The officer should also enter relevant updated information when it is received.

If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

608.6 OPERATIONS PLAN

The operations director should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:

- (a) Operation goals, objectives, and strategies.
- (b) Operation location and people:
 1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against police, gang affiliation, criminal history)
 2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces,

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- availability of keys/door combinations), including aerial photos, if available, and maps of neighboring yards and obstacles, diagrams and other visual aids
- 3. Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service)
- 4. Identification of other people who may be present in or around the operation, such as other criminal suspects, innocent third parties, and children
- (c) Information from the risk assessment form by attaching a completed copy in the operational plan.
 - 1. The volume or complexity of the information may indicate that the plan includes a synopsis of the information contained on the risk assessment form to ensure clarity and highlighting of critical information.
- (d) Participants and their roles.
 - 1. An adequate number of uniformed officers should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.
 - 2. How all participants will be identified as law enforcement.
- (e) Whether deconfliction submissions are current and all involved individuals, groups, and locations have been deconflicted to the extent reasonably practicable.
- (f) Identification of all communications channels and call-signs.
- (g) Use of force issues.
- (h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).
- (i) Plans for detaining people who are not under arrest.
- (j) Contingencies for handling children, dependent adults, animals, and other people who might be at the location in accordance with the Child Abuse, Senior and Disability Victimization, Child and Dependent Adult Safety, and Animal Control policies.
- (k) Communications plan.
- (l) Responsibilities for writing, collecting, reviewing, and approving reports.

608.6.1 OPERATIONS PLAN RETENTION

Since the operations plan contains intelligence information and descriptions of law enforcement tactics, it shall not be filed with the report. The operations plan shall be stored separately and retained in accordance with the established records retention schedule.

608.7 OPERATIONS BRIEFING

A briefing should be held prior to the commencement of any high-risk operation to allow all participants to understand the operation, see and identify each other, identify roles and responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.

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- (a) The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.
- (b) All participants should be provided a copy of the operations plan and search warrant, if applicable. Participating personnel should be directed to read the search warrant and initial a copy that is retained with the operation plan. Any items to be seized should be identified at the briefing.
- (c) The operations director shall ensure that all participants are visually identifiable as law enforcement officers.
 - 1. Exceptions may be made by the operations director for officers who are conducting surveillance or working under cover. However, those members exempt from visual identification should be able to transition to a visible law enforcement indicator at the time of enforcement actions, such as entries or arrests, if necessary.
- (d) The briefing should include details of the communications plan.
 - 1. It is the responsibility of the operations director to ensure that Dispatch is notified of the time and location of the operation, and to provide a copy of the operation plan prior to officers arriving at the location.
 - 2. If the radio channel needs to be monitored by Dispatch, the dispatcher assigned to monitor the operation should attend the briefing, if practicable, but at a minimum should receive a copy of the operation plan.
 - 3. The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment on the designated radio channel.

608.8 [CRU] PARTICIPATION

If the operations director determines that [CRU] participation is appropriate, the director and the [CRU] supervisor shall work together to develop a written plan. The [CRU] supervisor shall assume operational control until all persons at the scene are appropriately detained and it is safe to begin a search. When this occurs, the [CRU] supervisor shall transfer control of the scene to the handling supervisor. This transfer should be communicated to the officers present.

608.9 MEDIA ACCESS

No advance information regarding planned operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

608.10 OPERATIONS DEBRIEFING

High-risk operations should be debriefed as soon as reasonably practicable. The debriefing should include as many participants as possible. This debrief may be separate from any [CRU] debriefing.

608.11 TRAINING

The Training Sergeant should ensure officers and [CRU] team members who participate in operations subject to this policy should receive periodic training including, but not limited to,

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topics such as legal issues, deconfliction practices, operations planning concepts and reporting requirements.

Unmanned Aerial System

609.1 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.

609.1.1 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.

609.2 POLICY

Unmanned aerial systems may be utilized to enhance the [department/office]'s mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

609.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

609.4 PROGRAM COORDINATOR

The Chief of Police will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations, and best practices and will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current.
- Ensuring that all authorized operators and required observers have completed all required FAA and [department/office]-approved training in the operation, applicable laws, policies, and procedures regarding use of the UAS.
- Developing uniform protocol for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents. Deployment of a UAS shall require written authorization of the Chief of Police or the authorized designee, depending on the type of mission.

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- Developing protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Implementing a system for public notification of UAS deployment.
- Developing an operational protocol governing the deployment and operation of a UAS including but not limited to safety oversight, use of visual observers, establishment of lost link procedures, and secure communication with air traffic control facilities.
- Developing a protocol for fully documenting all missions.
- Developing a UAS inspection, maintenance, and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored, and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates, and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
- Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief of Police.

609.5 USE OF UAS

Only authorized operators who have completed the required training shall be permitted to operate the UAS.

Use of vision enhancement technology (e.g., thermal and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant or court order. In all other instances, legal counsel should be consulted.

UAS operations should only be conducted in accordance with the Federal Aviation Administration Certificate of Authorization. A UAS should not be flown directly over populated areas without FAA approval.

609.6 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.

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- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

609.7 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established records retention schedule.

Forensic Genetic Genealogy

610.1 PURPOSE AND SCOPE

This policy provides guidance for the use of forensic genetic genealogy (FGG) to generate investigative leads.

610.1.1 DEFINITIONS

Definitions related to this policy include:

Combined DNA Index System (CODIS) - An FBI computer software program that operates deoxyribonucleic acid (DNA) profile databases for law enforcement use.

DNA typing laboratory - A laboratory that analyzes biological samples, including extracted DNA, in order to provide various DNA profile types. State or local crime labs are generally not equipped to provide single nucleotide polymorphism (SNP) DNA profiles; therefore, the use of private DNA typing laboratories is often necessary for FGG.

Extracted DNA - The DNA isolated from a biological sample remaining after previous DNA testing has been completed.

Forensic genetic genealogy (FGG) - The process of obtaining a SNP DNA profile from a biological sample collected during an investigation; uploading the profile to a genetic genealogy site for comparison to the consumer profiles in the site's database to identify genetic relatives; and using the identified genetic relationships, as well as traditional genealogy research, to generate investigative leads.

Genetic genealogist - A genealogist who uses DNA testing with traditional genealogical research methods to assist law enforcement or private clients in identifying biological relatives of an individual.

Genetic genealogy site - A database of DNA profiles voluntarily submitted by public consumers for the purpose of identifying genetic relatives. The availability of genetic genealogy sites for law enforcement use varies depending on their terms of service.

Short tandem repeat (STR) DNA profile - The results of DNA typing in a format that can be processed through CODIS and state DNA databases. This is the type of DNA used in conventional non-FGG law enforcement investigations.

Single nucleotide polymorphism (SNP) DNA profile - The results of DNA typing in a format that enables an unknown DNA sample to be compared to the DNA profiles maintained by a genetic genealogy site. This is the DNA type used in FGG.

610.2 POLICY

The Banning Police Department's use of FGG will be in coordination with prosecutors, the [Medical Examiner/JOP], and other appropriate resources only in qualifying cases after reasonable conventional investigative methods have been pursued. Members will take reasonable steps to

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maintain the integrity of the FGG process and safeguard the privacy rights of individuals whose DNA profiles are analyzed.

610.3 CRITERIA FOR FGG USE

Before using FGG, the lead investigator should coordinate with the supervisor to determine whether the case meets the following requirements:

- (a) Biological evidence collected as part of the underlying investigation (or extracted DNA from the biological evidence) is available for additional testing and is reasonably believed to be attributable to:
 - 1. The perpetrator of an unsolved violent felony.
 - 2. The unidentified human remains of a suspected homicide victim.
- (b) All reasonable conventional investigative methods have been utilized and all reasonable investigative leads have been pursued (e.g., relevant case information entered in the National Missing and Unidentified Persons System (NamUs) and the Violent Criminal Apprehension Program (ViCAP) national database).
- (c) An STR DNA profile has been developed from the biological evidence collected in the case and, absent unusual circumstances, has been uploaded to CODIS and any applicable state DNA database for comparison with negative results.

610.4 COORDINATION

Once a preliminary determination has been made that a case may qualify for the use of FGG, the lead investigating member should consult with the appropriate prosecutor to address current and prospective legal issues and determine if a search warrant is required.

In the case of unidentified human remains, the lead investigator should also consult with the [Medical Examiner/JOP].

610.5 SUBMISSION OF SAMPLE

The biological evidence or extracted DNA should be submitted to a DNA typing laboratory approved by the [Department/Office] in order to obtain a SNP DNA profile.

Once a SNP DNA profile has been obtained from the biological evidence or extracted DNA, the lead investigating member should arrange for it to be compared to the SNP DNA profiles contained in one or more genetic genealogy sites to identify possible genetic relatives. The lead investigator should work with a qualified genetic genealogist as needed during this process.

When submitting a SNP DNA profile for comparison, the lead investigator or the authorized designee (e.g., assigned genetic genealogist) shall notify the genetic genealogy site that the request for comparison is from a law enforcement agency and confirm that the site's terms of service permit FGG for the type of case being investigated. The use of the SNP DNA profile and any subsequent comparison shall be limited to the original underlying investigation.

If at any time during the FGG process the case no longer meets the criteria for FGG use, the lead investigator should promptly notify the DNA typing laboratory, genetic genealogy site, and/or

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genetic genealogist to cease any further analysis and to return all evidence, data, and materials to the [Department/Office].

610.6 ANALYSIS OF FGG DATA

Once results of a comparison are received from a genetic genealogy site, the information should be evaluated by a genetic genealogist, who will assist the lead investigator in identifying potential investigative leads.

The lead investigator should promptly and diligently pursue each viable lead identified through the FGG process using traditional investigative methods, as appropriate, to:

- (a) Eliminate an individual as a potential suspect in the case.
- (b) Link an individual to the case as a potential suspect.
- (c) Identify human remains.

610.7 COLLECTION OF THIRD-PARTY DNA SAMPLE

If it is determined that a third-party DNA sample (i.e., from a person not likely to be a suspect in the investigation) should be collected and analyzed for FGG, consent from the third party should be obtained prior to collection.

If there is a reasonable belief that the integrity of the investigation would be compromised by seeking consent from the third party prior to collection, the lead investigator should consult with the prosecutor regarding applicable laws and procedures in both the jurisdiction of the investigation and the jurisdiction where the collection will occur, if different.

The use of a third-party DNA sample shall be limited to the original underlying investigation.

610.8 POST-IDENTIFICATION

Members shall not rely solely on FGG identification of a potential suspect for probable cause to make an arrest or obtain an arrest warrant. Unless there is sufficient evidence independent of the FGG data to support an arrest, a potential suspect identified through FGG should not be arrested until the suspect's identity is confirmed.

Members shall not rely solely on FGG to identify human remains unless there is sufficient evidence independent of the FGG data to declare the identification or confirmation testing has been completed.

Confirmatory DNA testing should be conducted by collecting a known DNA sample from the potential suspect or, in the case of unidentified human remains, from a close biological relative. This known DNA sample should be submitted for comparison to the original unknown STR DNA profile through conventional methods (e.g., in CODIS).

The lead investigator should consult with the prosecutor to determine the appropriate method of obtaining a known DNA sample.

Once the identity of a suspect or the identity of unidentified human remains has been confirmed through conventional DNA testing, the lead investigator should:

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- (a) Consult with the prosecutor to evaluate the entire investigative file for consideration of criminal charges or further investigation.
- (b) If applicable, consult with the [Medical Examiner/JOP] for an amendment to a certificate of death.

610.9 PRIVACY CONSIDERATIONS

Members should make reasonable efforts to respect and protect the privacy of non-suspect genetic relatives identified through the FGG process. The names and identifying information of any non-suspect genetic relatives should not be included in official reports, probable cause declarations, or affidavits for search warrants and should not be disclosed unless otherwise required by law or court order.

The lead investigator should formally request that the SNP DNA profile be removed from all genetic genealogy sites upon identity confirmation and should retain a copy of the request for [department/office] records. The lead investigator should request that all case-related records and data provided to, or generated by, a genetic genealogist during the FGG process be returned to the [Department/Office].

610.10 RETENTION OF DNA SAMPLES AND RELATED RECORDS

Genetic information, including any derivative profiles and genetic genealogy site user information, should be retained in accordance with the established records retention schedule. The lead investigator should coordinate with the Evidence Technician and provide adequate notice to the appropriate prosecutor's office before destroying any profiles or data obtained from the FGG process.

See the Property and Evidence Policy for guidelines regarding biological evidence, including DNA samples.

Chapter 7 - Equipment

Department Owned and Personal Property

700.1 PURPOSE AND SCOPE

Department employees are expected to properly care for Department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or Department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

700.2 CARE OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of Department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of Department property may lead to discipline including, but not limited to the cost of repair or replacement.

- (a) Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any Department issued property or equipment assigned for their use.
- (b) The use of damaged or unserviceable Department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.
- (c) Except when otherwise directed by competent authority or required by exigent circumstances, Department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.
- (d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- (e) In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be made in a written memorandum. This memorandum 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 Lieutenant, which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief of Police who will then forward the claim to the Finance Department.

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The Department will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of work.

700.3.1 REPORTING REQUIREMENT

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit. A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

Officers and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, whether in or outside the jurisdiction of the City of Banning, shall report it as provided below.

- (a) A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.
- (b) A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY

If employees of another jurisdiction cause damage to real or personal property belonging to the City, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit. The employee shall submit a written report before going off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate Division Lieutenant.

Personal Communication Devices

701.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued or funded by the [Department/Office] or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), wireless capable tablets and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, emailing, using video or camera features, playing games and accessing sites or services on the Internet.

701.2 POLICY

The Banning Police Department allows members to utilize [department/office]-issued or funded PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the [Department/Office], will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, members are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the member and the member's PCD records to civil or criminal discovery or disclosure under applicable public records laws.

Members who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

701.3 PRIVACY POLICY

Employees shall have no expectation of privacy with regard to any communication made with or stored in or through PCDs issued by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities. The use of any department-provided or -funded PCD, computer, Internet service, telephone service or other wireless service while on-duty is without any expectation of privacy that the employee might otherwise have in any communication, including the content of any such communication. Communications or data reception on personal, password-protected, web-based e-mail accounts and any other services are subject to monitoring if department equipment is used.

In accordance with this policy, supervisors are authorized to conduct a limited administrative search of electronic files without prior notice, consent or a search warrant, on department-issued 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. All such searches shall be fully documented in a written report.

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701.3.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)

No member is authorized to be the sole possessor of a [department/office]-issued PCD. [Department/Office]-issued PCDs can be retrieved, reassigned, accessed or used by any member as directed by a supervisor without notice. Member use of a [department/office]-issued PCD and use of a personal PCD at work or for work-related business constitutes specific consent for access for [department/office] purposes. Prior to conducting an administrative search of a PCD, supervisors should consult legal counsel to ensure access is consistent with CalECPA (Penal Code § 1546; Penal Code § 1546.1).

701.4 [DEPARTMENT/OFFICE]-ISSUED PCD

Depending on a member's assignment and the needs of the position, the [Department/Office] may, at its discretion, issue or fund a PCD. [Department/Office]-issued or funded PCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of the [Department/Office] and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

Unless a member is expressly authorized by the Chief of Police or the authorized designee for off-duty use of the PCD, the PCD will either be secured in the workplace at the completion of the tour of duty or will be turned off when leaving the workplace.

701.5 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 shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment with the Department, without the express authorization of the Chief of Police or the authorized designee.

701.6 USE OF PCD

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct [department/office] business:

- (a) A PCD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.

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- (b) All PCDs in the workplace shall be set to silent or vibrate mode.
- (c) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Members shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.
- (d) Members may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid, or in lieu of regular radio communications.
- (e) Members are prohibited from taking pictures, audio or video recordings or making copies of any such picture or recording media unless it is directly related to official [department/office] business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief of Police or the authorized designee, may result in discipline.
- (f) Members will not access social networking sites for any purpose that is not official [department/office] business.
- (g) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

701.7 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that members under their command are provided appropriate training on the use of PCDs consistent with this policy.
- (b) Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.
 - 1. An investigation into improper conduct should be promptly initiated when circumstances warrant.
 - 2. Before conducting any administrative search of a member's personally owned device, supervisors should consult with the Chief of Police or the authorized designee.

701.8 USE WHILE DRIVING

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

Members who are operating [department/office] vehicles that are not authorized emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured

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to allow hands-free use. In an emergency, a wireless phone may be used to place an emergency call to the [Department/Office] or other emergency services agency (Vehicle Code § 23123; Vehicle Code § 23123.5). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

701.9 OFFICIAL USE

Members are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, members shall conduct sensitive or private communications on a land-based or other [department/office] communications network.

Vehicle Maintenance

702.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining [Department/Office] vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

702.2 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. A copy of the repair request shall be forwarded to the employee's Division Lieutenant or his/her designee.

702.2.1 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged, or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

702.2.2 SEVERE USE

Vehicles operated under severe-use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer's parameters, should be removed from service and subjected to a safety inspection as soon as practicable. Such conditions may include rough roadway or off-road driving, hard or extended braking, pursuits or prolonged high-speed operation.

702.2.3 REMOVAL OF WEAPONS

All firearms, weapons and control devices shall be removed from a vehicle and properly secured in the [department/office] armory prior to the vehicle being released for maintenance, service or repair.

702.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all [department/office] vehicles for emergency purposes and to perform routine duties.

702.3.1 PATROL VEHICLES

Officers shall inspect the patrol vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is present in the vehicle:

- One case of emergency road flares
- One stick of yellow crayon/chalk or marking spray paint can
- One roll barricade "Police Line-Do Not Cross" tape
- One First Aid Kit
- One Fire Extinguisher

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Vehicle Maintenance

- Protective equipment per § 1016

Officers shall also inspect the patrol vehicle to ensure the oil level is appropriate for the vehicle's operation and the vehicle's mileage has not exceeded the recommended service mileage found on the "Service Due" sticker from city yards.

702.3.2 UNMARKED VEHICLES

An employee driving unmarked department vehicles shall ensure that the minimum following equipment is present in the vehicle

- One First Aid Kit
- One Fire Extinguisher
- Protective Equipment § 1016

702.4 VEHICLE REFUELING

Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not place a vehicle in service that has less than one-quarter tank of fuel. Vehicles shall only be refueled at the authorized location.

702.5 WASHING OF VEHICLES

All units shall be kept clean at all times and weather conditions permitting, shall be washed as necessary to enhance their appearance.

Officers in patrol shall obtain clearance from the dispatcher before responding to the car wash. Only one marked unit should be at the car wash at the same time unless otherwise approved by a supervisor.

Employees using a vehicle shall remove any trash or debris at the end of their shift. Confidential material should be placed in a designated receptacle provided for the shredding of this matter.

702.6 NON-SWORN EMPLOYEE USE

Non-sworn employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Non-sworn employees shall also prominently display the "out of service" placards or lightbar covers at all times. Non-sworn employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

Vehicle Operations

703.1 PURPOSE AND SCOPE

The purpose of this General Order is to set guidelines to ensure departmental vehicles are properly maintained and operated in safe and lawful manner.

703.2 DEPARTMENT VEHICLES

The Department will deploy and maintain those types of vehicles which are needed for Departmental operations. A Department vehicle may be mission specific and used for that purpose only.

703.2.1 AUTHORIZATION TO USE DEPARTMENT VEHICLE

Department members shall only operate those Department vehicles which they are legally qualified to drive and operate. A Department member shall not use any Departmental vehicle without the knowledge and consent of their supervisor. Department vehicles shall only be used for official business of the Department.

703.2.2 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.

703.3 OPERATION OF EMERGENCY VEHICLE

An emergency vehicle shall only be operated by a sworn Police Officer or other authorized personnel. The vehicle shall be designated "out of service" with a window sign and/or a covered light bar when operated by other than sworn personnel.

703.4 DRIVERS LICENSE REQUIREMENT

Department members operating city vehicles shall maintain a valid driver's license if it is a requirement for the position held.

703.5 DRIVING SAFELY

The operation of a Department vehicle shall be conducted safely with due regard for weather, time of day, condition of the roadway and traffic conditions. Department members must be in full control of the Department vehicle at all times. Department vehicles will be operated in accordance with Department Policies and Procedures.

703.5.1 USE OF SEATBELTS

Department members shall use seat belts, as designed, at all times when operating or riding in a Department vehicle.

703.6 VEHICLE RESPONSE

The Department shall employ two (2) types of responses identified as Emergency and Routine.

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- (a) An Emergency Response is defined as driving an emergency vehicle with the emergency lighting system activated and operating the siren as reasonably necessary.
- (b) An Emergency Response is authorized when responding to a reported life-threatening situation.
- (c) An Officer may initiate an Emergency Response, but he/she must relay to dispatch that he/she has done so.
- (d) Dispatch then is required to notify field supervision for approval to continue the Emergency Response based on the information available at the time.
- (e) Officers authorized to engage in Emergency Responses must adhere to all Vehicle Code sections regarding the operation of an emergency vehicle.
- (f) All other responses shall be a Routine Response, and the employee shall drive the vehicle with due regard for the safety of all persons.

703.7 EMPLOYEE STATUS FOR EMERGENCY RESPONSE MODE

An employee operating an emergency vehicle in an Emergency Response mode must be a full time sworn Police Officer or a Reserve Police Officer as defined in Penal Code §§ 830.1 and 830.6.

703.8 EMERGENCY VEHICLE REQUIREMENTS

Only designated and equipped Departmental vehicles shall be used as emergency vehicles.

703.9 IDLING VEHICLES

To enhance the life expectancy of department vehicles and prevent waste, no department vehicle will be left idling while parked, unless the vehicle is actively being used during an investigation or call for service such as traffic stops, traffic control, perimeter control, and suspect detainment.

Vehicles parked at the station for report writing, in-custody processing, or administrative duties, or while parked at an event for extended periods shall be turned off.

703.10 ANNUAL REVIEW OF VEHICLE OPERATIONS

Once per year, the Administrative Division Lieutenant (and/or designee) will conduct a review for the purpose of assuring the Department policy and guidelines for traffic enforcement, vehicle operations, responses, and pursuits are current and meet Departmental need. The recommended changes will be submitted to the Chief of Police for approval.

Vehicle Use

704.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure [department/office] vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of [department/office] vehicles and shall not be construed to create or imply any contractual obligation by the City of Banning 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.

704.2 POLICY

The Banning Police Department provides vehicles for [department/office]-related business and may assign patrol and unmarked vehicles based on a determination of operational efficiency, economic impact to the [Department/Office], requirements for tactical deployments, and other considerations.

704.3 USE OF VEHICLES

704.3.1 SHIFT ASSIGNED VEHICLES

The Watch Commander shall ensure a copy of the shift assignment roster indicating member assignments and vehicle numbers is completed for each shift and retained in accordance with the established records retention schedule. If a member exchanges vehicles during the member's shift, the new vehicle number shall be documented on the roster.

704.3.2 OTHER USE OF VEHICLES

Members utilizing a vehicle for any purpose other than their normally assigned duties or normal vehicle assignment (e.g., transportation to training, community event) shall first notify the Watch Commander. A notation will be made on the shift Watch Commander's Equipment Log indicating the member's name and vehicle number.

This subsection does not apply to those who are assigned to vehicle transportation duties to and from the maintenance yard or carwash.

704.3.3 INSPECTIONS

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. Any previously unreported damage, mechanical problems, unauthorized contents, or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

The interior of any vehicle that has been used to transport any person other than a member of this [department/office] should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

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When transporting any person in custody, the transporting member shall search all areas of the vehicle that are accessible by the person before and after that person is transported.

All [department/office] vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

704.3.4 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging). Officers who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.

Members shall ensure all weapons are secured while the vehicle is unattended.

704.3.5 MDT

Members assigned to vehicles equipped with a Mobile Data Terminal (MDT) shall log onto the MDT with the required information when going on-duty. If the vehicle is not equipped with a working MDT, the member shall notify Dispatch. Use of the MDT is governed by the Mobile Data Terminal Use Policy.

704.3.6 VEHICLE LOCATION SYSTEM

Patrol and other vehicles, at the discretion of the Chief of Police, may be equipped with a system designed to track the vehicle's location. While the system may provide vehicle location and other information, members are not relieved of their responsibility to use required communication practices to report their location and status.

Members shall not make any unauthorized modifications to the system. At the start of each shift, members shall verify that the system is on and report any malfunctions to their supervisor. If the member finds that the system is not functioning properly at any time during the shift, he/she should exchange the vehicle or tracking device for one with a working system, if available.

With a legitimate justification, system data may be accessed by supervisors at any time. However, access to historical data by other than supervisors will require Division Commander approval.

All data captured by the system shall be retained in accordance with the established records retention schedule.

704.3.7 KEYS

Members approved to operate marked patrol vehicles should be issued a copy of the key as part of their initial equipment distribution. Members who are assigned a specific vehicle should be issued keys for that vehicle.

The loss of a key shall be promptly reported in writing through the member's chain of command.

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704.3.8 AUTHORIZED PASSENGERS

Members operating [department/office] vehicles shall not permit persons other than City personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle, except as stated in the Ride-Along Policy.

704.3.9 ALCOHOL

Members who have consumed alcohol are prohibited from operating any [department/office] vehicle unless it is required by the duty assignment (e.g., task force, undercover work). Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

704.3.10 PARKING

Except when responding to an emergency or when urgent [department/office]-related business requires otherwise, members driving [department/office] vehicles should obey all parking regulations at all times.

[Department/Office] vehicles should be parked in assigned stalls. Members shall not park privately owned vehicles in stalls assigned to [department/office] vehicles or in other areas of the parking lot that are not so designated unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

704.3.11 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions or removal of any equipment or accessories without written permission from the assigned vehicle program manager.

704.3.12 NON-SWORN MEMBER USE

Non-sworn members using marked emergency vehicles shall ensure that all weapons have been removed before going into service. Non-sworn members shall prominently display the "out of service" placards or light bar covers at all times. Non-sworn members shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

704.4 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 and/or in accordance with any valid and current contractual agreements.

The assignment of vehicles may be suspended when the member is unable to perform his/her regular assignment.

704.4.1 ON-DUTY USE

Vehicle assignments shall be based on the nature of the member's duties, job description and essential functions, and employment or appointment status. Vehicles may be reassigned or utilized by other [department/office] members at the discretion of the Chief of Police or the authorized designee.

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704.4.2 UNSCHEDULED TAKE-HOME USE

Circumstances may arise where [department/office] vehicles must be used by members to commute to and from a work assignment. Members may take home [department/office] vehicles only with prior approval of a supervisor and shall meet the following criteria:

- (a) The circumstances are unplanned and were created by the needs of the [department/office].
- (b) Other reasonable transportation options are not available.
- (c) The member lives within a reasonable distance (generally not to exceed a 60-minute drive time) of the Banning City limits.
- (d) Off-street parking will be available at the member's residence.
- (e) Vehicles will be locked when not attended.
- (f) All firearms, weapons and control devices will be removed from the interior of the vehicle and properly secured in the residence when the vehicle is not attended, unless the vehicle is parked in a locked garage.

704.4.3 ASSIGNED VEHICLES

Assignment of take-home vehicles shall be based on the location of the member's residence, the nature of the member's duties, job description and essential functions, and employment or appointment status. Residence in the City of Banning is a prime consideration for assignment of a take-home vehicle. Members who reside outside the City of Banning may be required to secure the vehicle at a designated location or the [Department/Office] at the discretion of the Chief of Police.

[Department/Office] members shall sign a take-home vehicle agreement that outlines certain standards, including, but not limited to, how the vehicle shall be used, where it shall be parked when the member is not on-duty, vehicle maintenance responsibilities and member enforcement actions.

Members are cautioned that under federal and local tax rules, personal use of a City vehicle may create an income tax liability for the member. Questions regarding tax rules should be directed to the member's tax adviser.

Criteria for use of take-home vehicles include the following:

- (a) Vehicles shall only be used for work-related purposes and shall not be used for personal errands or transports, unless special circumstances exist and the Chief of Police or a Division Commander gives authorization.
- (b) Vehicles may be used to transport the member to and from the member's residence for work-related purposes.
- (c) Vehicles will not be used when off-duty except:
 - 1. In circumstances when a member has been placed on call by the Chief of Police or Division Commanders and there is a high probability that the member will be called back to duty.

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2. When the member is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or travelling to or from a work-related activity or function.
 3. When the member has received permission from the Chief of Police or Division Commanders.
 4. When the vehicle is being used by the Chief of Police, Division Commanders or members who are in on-call administrative positions.
 5. When the vehicle is being used by on-call investigators.
- (d) While operating the vehicle, authorized members will carry and have accessible their duty firearms and be prepared to perform any function they would be expected to perform while on-duty.
- (e) The two-way communications radio, MDT and global positioning satellite device, if equipped, must be on and set to an audible volume when the vehicle is in operation.
- (f) Unattended vehicles are to be locked and secured at all times.
1. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging).
 2. All weapons shall be secured while the vehicle is unattended.
 3. All [department/office] identification, portable radios and equipment should be secured.
- (g) Vehicles are to be parked off-street at the member's residence unless prior arrangements have been made with the Chief of Police or the authorized designee. If the vehicle is not secured inside a locked garage, all firearms and kinetic impact weapons shall be removed and properly secured in the residence (see the Firearms Policy regarding safe storage of firearms at home).
- (h) Vehicles are to be secured at the member's residence or the appropriate [department/office] facility, at the discretion of the [Department/Office] when a member will be away (e.g., on vacation) for periods exceeding one week.
1. If the vehicle remains at the residence of the member, the [Department/Office] shall have access to the vehicle.
 2. If the member is unable to provide access to the vehicle, it shall be parked at the [Department/Office].
- (i) The member is responsible for the care and maintenance of the vehicle.

704.4.4 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the Banning Police Department or while off-duty, an officer shall not initiate enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions and Law Enforcement Authority policies).

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Officers may render public assistance when it is deemed prudent (e.g., to a stranded motorist).

Officers driving take-home vehicles shall be armed, appropriately attired and carry their [department/office]-issued identification. Officers should also ensure that [department/office] radio communication capabilities are maintained to the extent feasible.

704.4.5 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Cleaning and maintenance supplies will be provided by the [Department/Office]. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

- (a) Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage.
- (b) It is the member's responsibility to ensure that the assigned vehicle is maintained according to the established service and maintenance schedule.
- (c) All scheduled vehicle maintenance and car washes shall be performed as necessary at a facility approved by the [department/office] supervisor in charge of vehicle maintenance.
- (d) The [Department/Office] shall be notified of problems with the vehicle and approve any major repairs before they are performed.
- (e) When leaving the vehicle at the maintenance facility, the member will complete a vehicle repair card explaining the service or repair, and leave it on the seat or dash.
- (f) All weapons shall be removed from any vehicle left for maintenance.
- (g) Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with this policy.

704.5 UNMARKED VEHICLES

Vehicles are assigned to various divisions and their use is restricted to the respective division and the assigned member, unless otherwise approved by a division supervisor. Any member operating an unmarked vehicle shall record vehicle usage on the sign-out log maintained in the division for that purpose. Any use of unmarked vehicles by those who are not assigned to the division to which the vehicle is assigned shall also record the use with the Watch Commander on the shift assignment roster.

704.6 DAMAGE, ABUSE AND MISUSE

When any [department/office] vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic collision report shall be filed with the agency having jurisdiction (see the Traffic Collision Reporting Policy).

Damage to any [department/office] vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in

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memorandum format and forwarded to the Watch Commander. An administrative investigation should be initiated to determine if there has been any vehicle abuse or misuse.

704.7 TOLL ROAD USAGE

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating [department/office] vehicles on a toll road shall adhere to the following:

- (a) Members operating [department/office] vehicles for any reason other than in response to an emergency shall pay the appropriate toll charge or utilize the appropriate toll way transponder. Members may submit a request for reimbursement from the City for any toll fees incurred in the course of official business.
- (b) Members passing through a toll plaza or booth during a response to an emergency shall notify, in writing, the appropriate Division Commander within five working days explaining the circumstances.

704.8 ATTIRE AND APPEARANCE

When operating any [department/office] vehicle while off-duty, members may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the [Department/Office].

704.9 B.P.O.A. MOU TAKE-HOME AGREEMENT

Per the current B.P.O.A. M.O.U., each full time Police Officer who has completed the department's Field Training Officer Program, the applicable probationary period, is a B.P.O.A. Member in good standing, and assigned to patrol will be assigned a marked take-home patrol vehicle. This entitlement does not apply to officers on administrative leave, off work due to injuries sustained on duty, out on medical leave, or any extended family medical leave. The entitlement does not require the member to participate in the take-home patrol vehicle program.

The goal of the department's Assigned Take-Home Patrol Vehicle Program is to comply with the current B.P.O.A. M.O.U. and to maintain a fleet of assigned take-home patrol vehicles in order to provide greater police visibility in the city, increase the sense of safety and security, enhance the department's ability to deploy police resources in a rapid and efficient manner in emergency situations in spite of limited resources and staffing, and provide more efficient and effective police services and protection to the city's residents, merchants, and visitors. No take home vehicle will be assigned to a patrol officer who is not cleared for full duty.

Police Officers participating in the Assigned Take-Home Patrol Vehicle Program shall comply with all department policies and procedures related to department vehicle use and the conditions contained in the Assigned Take-Home Vehicle Use Agreement. Failure to follow the agreement and department policies and procedures could result in the revocation of the police officer's right to participate in the program.

Emergency Restraint Chair

707.1 PURPOSE

The Emergency Restraint Chair (ERC) is designed to humanely restrain violent or self-destructive subjects in the custody of the Banning Police Department. The ERC is a restraint device and its use alone is not deemed a use of force.

707.2 TRAINING

All Banning Police Department members **shall** watch the instructional videos on the safe use of the ERC and read this Department Directive. The video will remain in the Watch Commander's Office. Department members will then demonstrate the ability to safely use the ERC to a Watch Commander. Once the instructional video has been viewed, competency has been demonstrated, and this directive has been read, the department member and Watch Commander will sign the ERC Training Memorandum and the memorandum will be placed in the department member's personnel file.

707.3 GUIDELINES

All members using the Emergency Restraint Chair must adhere to the following guidelines.

707.3.1 APPLICATIONS

- The Emergency Restraint Chair (ERC) is to be used as a supplement to handcuffs, waist and leg chain restraints, and protective headgear.
- **A Watch Commander must approve any use of the ERC.**
- The ERC may be used preemptively to restrain arrestees / subjects on 5150 WIC holds who have a propensity for violence or present a significant security risk during movement. A supervisor shall be present in these situations.

707.3.2 RESTRICTIONS

- Care **shall** be taken to place the chair in a position to prevent flipping over and injuring the restrained subject.
- Use of the ERC as punishment is **strictly forbidden**. A violation of this policy will result in disciplinary action and could result in criminal prosecution.
- A subject should not remain in the ERC for more than four hours, unless a Watch Commander determines the subject is still violent or self-destructive.
- A department member **shall** remain in visual and auditory contact with any subject placed in the ERC. Video monitoring is acceptable so long as auditory contact is maintained.
- Only department members who have received formal training on the use of the ERC, have demonstrated competency in its use and have read this directive may use it.
- Use of the ERC for "horseplay" by staff members is forbidden and is subject to discipline.

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707.3.3 DOCUMENTATION

- An ERC Log (BPD Form ERC Log) **shall** be started and maintained for every subject restrained in the ERC.
- If force was used to place the subject in the ERC, staff shall complete the appropriate "Use of Force" documentation (refer to Department Policy Use of Force).
- Any use of the ERC **shall** be documented in the appropriate police report.

707.3.4 EMERGENCY RESTRAINT CHAIR PLACEMENT

- If the subject is handcuffed, the handcuffs should be secured using the handcuff tether on the back of the chair. **It is preferable to remove the handcuffs at the first possible opportunity.**
- The armrests have straps which fit snugly over the subject's wrist. The subject's hand is passed through the strap, and the department member pulls down on the strap to tighten to a secure fit.
- The two chest straps fasten securely over the subject's shoulders and under their arms. The straps are fastened to the rear box on the metal brace and tightened to fit snugly.
- The waist and leg restraint straps are applied across the ankle or waist, slipped over the chair hook, and tightened with the opposite end of the strap to fit snugly.
- Subjects who are secured in the ERC and spitting at staff members may have the department approved expectorant shield placed over their heads.
- Staff members **shall** use caution when securing a subject in the ERC and when allowing the subject to exercise his/her limbs because the subject may try to bite, head butt, hit, or kick staff.

707.3.5 CIRCULATION

- Staff members shall apply the ERC restraints in a manner that provides the subject with adequate circulation.
- After a subject is placed in the ERC, the subject will be allowed to exercise each of his/her limbs at least once every 30 minutes. Each unrestrained limb will be exercised one at a time.
- If removing the wrist straps, handcuffs, or leg restraints poses a danger to the subject or staff, the restraints may be left on. This requires a supervisor's approval and a notation on the ERC Log.

707.3.6 OBSERVING AND MONITORING A SUBJECT IN THE EMERGENCY RESTRAINT CHAIR

- All observations and evaluations by department members, medical staff, mental health staff, and supervision **shall** be documented on the ERC Log, including the time the check or evaluation occurred.

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- A department member **shall** visually check the subject twice every 30 minutes for the subject's safety and well-being. The check **shall** be documented on the ERC Log.
- Any physical signs of injury or distress **shall** be reported immediately to a Watch Commander and medical treatment will be sought.
- Every two hours, the subject **shall** be given the opportunity to use the toilet and drink water from a paper cup, unless a Watch Commander determines it is unsafe.
- If the subject becomes violent as the restraints are being removed, the department member(s) **shall** not release the subject and shall try again in 30 minutes.

707.3.7 REMOVAL FROM THE EMERGENCY RESTRAINT CHAIR

- Every hour a Watch Commander **shall** evaluate the need for keeping a subject in the ERC.
- The subject **shall** be released from the ERC as soon as their behavior is such that they can be safely removed.
- Only a Watch Commander can approve the removal of a subject from the ERC. This decision will be based on the Watch Commander's observations of the subject's behavior, and their determination that the subject can be safely removed from the ERC.
- Subjects **shall** be asked about and pain or injuries upon release from the ERC **and** their response **shall** be documented in the appropriate police report.
- Any complaint of pain or injury reported by a subject after removal from the ERC **shall** be documented in the appropriate police report **and** medical treatment **shall** be provided if necessary.

707.4 CLEANING AND MAINTENANCE

- The ERC **shall** be cleaned prior to subject placement and after the subject is removed. The department member **shall** use the ERC Log to document the ERC was cleaned prior to the subject's placement and after their removal.
- The ERC **shall** be properly maintained. All damaged, broken, worn parts **shall** be reported to administration through the chain of command. If damaged, the ERC **shall** be taken out of use until all damaged parts are replaced.

Military Equipment

708.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

708.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the [Department/Office].

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized 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 firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- Area denial electroshock devices, microwave weapons, water cannons, long-range acoustic devices (LRADs), acoustic hailing devices, and sound cannons.
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

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708.2 POLICY

It is the policy of the Banning Police Department that members of this [department/office] comply with the provisions of Government Code § 7071 with respect to military equipment.

708.3 MILITARY EQUIPMENT COORDINATOR

The Police Captain is designated 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/office] equipment that qualifies as military equipment in the current possession of the [Department/Office], or the equipment the [Department/Office] 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 Banning Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 1. Publicizing the details of the meeting.
 2. Preparing for public questions regarding the [department/office]'s funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the [department/office] 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/Office] will respond in a timely manner.

708.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the [Department/Office] or mutual aid departments:

Unmanned, remotely piloted powered aerial or ground vehicles

- Search and locate reported missing children or at-risk adults
- Search and Rescue Operations to locate lost or Injured hikers
- A law enforcement specific application involving Aerial DRONES are used for open terrain or large field searches as a force-multiplier to assist in high-risk apprehensions of armed or violent suspects. Aerial drones can be used as an interior search tool to locate suspects barricaded inside a residence or commercial structure.
- A tracked armored vehicle remotely piloted for use in explosive ordinance disposal

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- Unmanned robotics have numerous applications. Robotics are used instead of personnel in high-risk environments to increase safety for law enforcement

Armored Vehicles

- Converted Bank Armor Car used for high-risk rescue or high-risk tactical operations.

Assault Weapons defined under PC 30510 & PC 30515

- Inventory includes AR style rifles that function at full and semi-automatic capability (fully automatic rifles are not assigned and kept in the armory)
- Semi-automatic Benelli shotguns
- Increased accuracy and precision at long range distances
- Currently used by most law enforcement agencies across the nation

Tear Gas

- Chemical agents are deployed through various means to include hand delivery and weapon launchable, such as pepper ball.

40mm projectile launchers

- Less lethal 40mm launchers and rubber projectile munitions- Munitions are configured for high and low energy impact.
- 40mm less lethal has been effective in disarming violent suspects, armed suspects, and subjects who are suicidal with minimal injury and risk to the person, law enforcement or the public.

Bean Bag Launchers

- Less lethal bean bag is utilized through a marked/orange colored easily identifiable less lethal shotgun.
- The bean bag round is a small led pellet filled munition made of high density cloth.
- Bean bag is the predecessor to 40mm less lethal having similar benefits as other less lethal platforms.

[See attachment: AB481 Specialized Police Equipment \(Military Equipment\).pdf](#)

708.5 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 policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the [department/office] website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the prohibitions outlined in (Government Code § 7071).

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708.6 COORDINATION WITH OTHER JURISDICTIONS

As established through past practice and mutual aid agreements, any jurisdiction through mutual aid agreement or request must accept the department's policies and procedures governing the deployment of equipment utilized by the Banning Police Department employees. This is reciprocal to other law enforcement agencies.

Through the Association of Riverside County Chiefs of Police and and Sheriff's (ARCCOPS) mutual aid agreement, all cities within Riverside County have agreed to accept the use of each law enforcement agency's Military Equipment policy related to any enforcement action throughout Riverside County.

Military equipment used by any member of this jurisdiction shall be approved for use and in accordance with this department policy. Military equipment used by other jurisdictions that are providing mutual aid to this jurisdiction shall comply with their respective military equipment use policies in rendering mutual aid.

708.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should 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 should also make each annual military equipment report publicly available on the [department/office] website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in [department/office] inventory.

708.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the [Department/Office] shall hold at least one well-publicized and conveniently located community engagement meeting, at which the [Department/Office] should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

Chapter 8 - Support Services

Dispatch

800.1 PURPOSE AND SCOPE

This policy establishes guidelines for the basic functions of Dispatch. It addresses the immediate information needs of the [Department/Office] in the course of its normal daily activities and during emergencies.

800.2 POLICY

It is the policy of the Banning Police Department to provide 24-hour telephone service to the public for information and for routine or emergency assistance. The [Department/Office] provides two-way radio capability providing continuous communication between Dispatch and [department/office] members in the field.

800.2.1 COMMUNICATIONS LOG

The Communications Center is responsible for recording relevant information on calls for criminal and non-criminal service or self-initiated activity. Employees shall attempt to elicit as much information as possible to enhance the safety of the officer and assist in anticipating conditions to be encountered at the scene. Desirable information would include, at a minimum, the following:

- Control number
- Date and time of request
- Name and address of complainant, if possible
- Type of incident reported
- Location of incident reported
- Identification of officer(s) assigned as primary and backup
- Time of dispatch
- Time of the officer's arrival
- Time of officer's return to service
- Disposition or status of reported incident

Department personnel shall not alter or delete any notes/description entries made by public safety dispatchers in the RIMS system. If department personnel believe incorrect information was entered by dispatch in the notes/description sections, they should contact the on-duty watch commander to determine if a change is needed.

The watch commander shall communicate with the on-duty dispatcher(s) to make changes to the notes/description entries if needed. If the Public Safety Dispatch Supervisor is not on-duty at the time of the change, the watch commander shall send an email notifying them of the change for documentation and training purposes.

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800.3 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/office] members with a specific business-related purpose.

800.3.1 OFFICER IDENTIFICATION

Identification systems are based on factors such as assignment, rank, and seniority. Employees should use the entire call sign when initiating communication with the dispatcher. The use of the call sign allows for a brief pause so that the dispatcher can acknowledge the appropriate unit. Employees initiating communication with other agencies shall use their entire call sign. This requirement does not apply to continuing conversation between the mobile unit and dispatcher once the mobile unit has been properly identified.

800.4 COMMUNICATIONS CENTER SECURITY

- (a) The Banning Police Department Communications Center located in the Banning Police Station contains secure California Law Enforcement Telecommunications System (CLETS) access and computerized dispatch and radio terminals. It is staffed by a minimum of one on-duty Public Safety Dispatcher.
- (b) Communications Center access shall be limited to the locked doors which shall be equipped with a key or keypad combination style lock to limit access to only authorized personnel.
- (c) The doors to the Communications Center will remain closed and locked at all times to insure the security of dispatch personnel.
- (d) No unauthorized department personnel shall be inside the secure area of the Communications Center.
- (e) It is the responsibility of each on-duty Public Safety Communications dispatcher to document any breaches of security in incident form and to forward the incidents to the Dispatch Supervisor and Division Commander.

800.4.1 AUTHORIZED PERSONNEL

- (a) On-duty public safety dispatchers
- (b) Public Safety Dispatchers coming on or going off shift to allow for sufficient time to brief their relief on pertinent information.
- (c) On-Duty Watch Commander
- (d) Dispatch or Records Supervisor
- (e) Administrative Staff (Chief, Captain, Lieutenants, Admin Secretary)
- (f) Information Technology Technician or technicians under immediate supervision of the IT Tech

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- (g) Personnel approved by the on-duty Watch Commander for the sole purpose of dispatch relief
- (h) Persons with written authorization from the Dispatch Supervisor
- (i) Persons with written authorization from the Chief of Police through a written directive
- (j) Persons who must obtain equipment stored in the communication center to complete their assigned duties.

800.4.2 USE OF PERSONAL ELECTRONIC DEVICES (PED) IN THE COMMUNICATION CENTER

The purpose of this policy is to set forth guidelines for the use of PEDs by public safety dispatchers to ensure their use does not disrupt the operational efficiency of the communication center. PEDs include but are not limited to computer laptops, iPads, tablets, and mobile phones.

Public Safety Dispatchers utilizing a PED in the communication center shall adhere to the following:

Times of Authorized Use:

- PEDs may be used by public safety dispatchers when they have no pending job related duties and there is no radio, phone, or text activity to handle.
- All PEDs in use will be immediately paused or turned off when any radio traffic, phone calls, or texts are received in the communication center. PEDs shall not be allowed back on until there is no further radio, phone, or text activity to be handled in the communication center.
- Communication Training Officers (CTOs) shall not use PEDs when assigned to a public safety dispatcher trainee with the exception of answering personal mobile phone calls, which should only last a moment or two. This is to ensure CTOs maintain their full attention on trainees and their job performance. CTOs should utilize "slow" times in the communication center as opportunities to provide additional training for the trainees.
- Public Safety Dispatcher Trainees are not authorized to use PED's while in training with the exception of answering personal mobile phone calls. Which should only last a moment or two.

PED and Internet Connections:

- PEDs shall only utilize the department's "GUEST" Wi-Fi network to access the internet.
- Personal Wi-Fi networks (Hotspots) shall not interfere with the department's IT network equipment.
- At no time shall a PED in any form be connected to a department computer, monitor, or IT network.

When in Use:

- PEDs shall never be positioned in a manner that will restrict the view and/or access of department equipment.
- Earphones shall never be used with PEDs.

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- The volume of PEDs shall be maintained at a level that is not disruptive to the operations of the communication center.
- Programming watched on the PEDs shall not contain vulgar language, nudity, or other content not appropriate for the work place.

The use of PEDs is a privilege and not a right.

800.5 RESPONSIBILITIES

800.5.1 DISPATCH SUPERVISOR

The Chief of Police shall appoint and delegate certain responsibilities to a Dispatch Supervisor. The Dispatch Supervisor is directly responsible to the Patrol Division Commander or the authorized designee.

The responsibilities of the Dispatch Supervisor include but are not limited to:

- (a) Overseeing the efficient and effective operation of Dispatch in coordination with other supervisors.
- (b) Scheduling and maintaining dispatcher time records.
- (c) Supervising, training, and evaluating dispatchers.
- (d) Ensuring the radio and telephone recording system is operational.
- (e) Maintaining Dispatch database systems.
- (f) Maintaining and updating Dispatch procedures manual, including:
 - (a) Procedures for specific types of crime reports may be necessary. For example, specific questions and instructions may be necessary when talking with a victim of a sexual assault to ensure that their health and safety needs are met, as well as steps that they may take to preserve evidence.
 - (b) Emergency Medical Dispatch (EMD) instructions that include prearrival medical instructions for 9-1-1 calls requiring medical assistance consistent with the provisions of Health and Safety Code § 1797.161.
 - (c) Ensuring [dispatcher compliance with established policies and procedures.
- (g) Handling internal and external inquiries regarding services provided and accepting personnel complaints in accordance with the Personnel Complaints Policy.
- (h) Maintaining a current contact list of City personnel to be notified in the event of a utility service emergency.

800.5.2 ADDITIONAL PROCEDURES

The Dispatch Supervisor should establish procedures for:

- (a) Recording all telephone and radio communications and playback issues.
- (b) Availability of current information for dispatchers (e.g., Watch Commander contact, rosters, member tracking methods, member contact, maps, emergency providers, tactical dispatch plans).

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- (c) Assignment of field members and safety check intervals.
- (d) Procurement of external services (e.g., fire suppression, ambulances, aircraft, tow trucks, taxis).
- (e) Handling misdirected, silent and hang-up calls.
- (f) Handling private security alarms, if applicable.
- (g) Radio interoperability issues.

800.5.3 DISPATCHERS

Dispatchers report to the Dispatch Supervisor. The responsibilities of the dispatcher include, but are not limited to:

- (a) Receiving and handling all incoming and transmitted communications, including:
 - (a) Emergency 9-1-1 lines, including Text to 9-1-1
 - (b) Business telephone lines.
 - (c) Telecommunications Device for the Deaf (TDD)/Text Telephone (TTY) equipment.
 - (d) Radio communications with [department/office] 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/office] members and support resources (e.g., fire department, EMS, allied agency law enforcement units).
- (c) Inquiry and entry of information through Dispatch, [department/office] and other law enforcement database systems (CLETS, DMV, NCIC).
- (d) Monitoring [department/office] video surveillance systems.
- (e) Maintaining the current status of members in the field, their locations and the nature of calls for service.
- (f) Notifying the Watch Commander or field supervisor of emergency activity, including, but not limited to:
 - 1. Vehicle pursuits.
 - 2. Foot pursuits.
 - 3. Assignment of emergency response.

800.6 CALL HANDLING

This [Department/Office] provides members of the public with access to the 9-1-1 system for a single emergency telephone number.

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When a call for services is received, the dispatcher will reasonably and quickly attempt to determine whether the call is an emergency or non-emergency, and shall quickly ascertain the call type, location and priority by asking four key questions:

- Where?
- What?
- When?
- Who?

If the dispatcher determines that the caller has a hearing and/or speech impairment or disability, he/she shall immediately initiate a connection with the individual via available TDD/TTY equipment or Telephone Relay Service (TRS), as mandated by the Americans with Disabilities Act (ADA).

If the dispatcher determines that the caller is a limited English proficiency (LEP) individual, the dispatcher should quickly determine whether sufficient information can be obtained to initiate an appropriate response. If language assistance is still needed, the language is known and a language-appropriate authorized interpreter is available in 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.

[See attachment: 2016 Text to 9-1-1 Policy.pdf](#)

800.6.1 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 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/office] members and affected individuals.

Emergency calls should be dispatched immediately. The Watch Commander shall be notified of pending emergency calls for service when [department/office] members are unavailable for dispatch.

800.6.2 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.

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800.7 TEXT TO 9-1-1 COMMUNICATION SYSTEM

Text-to-9-11 provides equal access to emergency services for the Deaf and Hard of Hearing Community as well as an alternative method of reporting emergencies when other traditional avenues are unavailable.

The Short Message Service (SMS), also known as text messaging, provides support for wireless subscribers to send 911 SMS text messages to Public Safety Answering Points (PSAPs) by using the single code 911 as the destination address of the SMS message.

As with standard practice in the Communications Center, Text-to-911, is for official business and will fall under the same standards for recording and retention.

The following procedures will be followed for the processing of Short Messages Service (SMS) to 911.

800.7.1 LOGGING ON/OFF OF THE TCS EMedia SERVICES 911 PLATFORM

Beginning of Shift:

Dispatchers assigned to receive Text-to-911 (SMS) messaging will log into the TCS EMedia 9-1-1 platform at the beginning of their shift provided there are at least two (2) dispatchers on duty, as messages will only be received when logged on. Each dispatcher will ensure that the software is open and operational.

The EMedia software will be used in accordance with the training and policies that has been developed and presented.

Breaks:

When the dispatcher is on break (Meal, restroom, etc) they will ensure that their assigned partner is available and they will log off of the system to avoid receiving a text-to-911 (SMS) message that may go unanswered. The remaining on-duty dispatcher has the option of logging off the system until the second dispatcher returns from their break.

End Of Shift:

At the end of their shift, or a change in assignment, the dispatcher will log off of the system after confirming their partner is available. During periods of shift change it is incumbent upon both dispatchers to provide and receive briefing or call information that is relevant to any active SMS calls for service.

800.7.2 VOLUME CONTROL

When logged into the system, dispatchers must keep the volume for the text-to-911 (SMS) message on and set to an audible tone that can be heard by the dispatcher, as it is one of the indicators that a new 9-1-1 text message has been received.

800.7.3 RECEIVING A TEXT-TO-911 CALL

Prioritizing Calls:

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All 9-1-1 calls are processed equally without regard to hierarchy and therefore Text-to-911 (SMS) lines will be accepted and answered immediately without delay and all calls shall be prioritized based on the nature of the call whether voice or text.

Ready/Not Ready:

Upon receiving a Text-to-911 (SMS) call, the dispatcher may place themselves, "Not Ready/Busy," on the telephone system until the text messaging call has been handled.

Location Accuracy:

It is imperative that the location be obtained at the earliest convenience because routing for location accuracy varies between cellular providers and for practical purposes it should be treated as a Phase 1.

Rebid:

At this time, the dispatcher is limited to a maximum of 5 rebids/refresh for updated location accuracy. The highlighted number in the center of the map indicates the number of times

the location has been rebid/refreshed. Keep in mind the limits as you process the call. Upon transferring to another PSAP, the new dispatcher will receive a new allocation of 5 opportunities to rebid/refresh the location.

800.7.4 DROP DOWN QUESTION MENU

There are several frequently asked questions designed as pre-set messages that the call taker may use to ease the processing of the text conversation. The canned messages should be used whenever possible to both expedite the call taking process and for consistency between calls. The flow of the text conversation should emulate those of voice 9-1-1 calls in that the 5 1/2 W's; Where, What, Who, When, Weapons, and How should be answered. Dispatchers will not use jargon, abbreviations, or acronyms but rather spell out questions to avoid misunderstanding with the callers.

1. The caller will be greeted with the following script; "Banning Police Department what is the location/address of the emergency you are reporting?"

Because it is imperative that the location be obtained and verified because routing for location accuracy varies between cellular providers and for practical purposes it should be treated as a Phase, the dispatcher must ask for an address of the emergency. This helps to locate the subject in case of an emergency in the future and being able to ID who texted from a specific cell number. This alleviates unnecessary calls to the cellphone security/tracking companies and saves times, when they do not speak or provide an address.

1. The dispatcher should ask the caller if they can call in by voice and if it is safe for them to do so.
2. The dispatcher should ask the caller if they can receive a voice callback if necessary and if it is safe for them to receive a call from 9-1-1.

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3. The dispatcher will always generate a call for service in CAD via RIMS mask and then determine if a field unit's response is necessary. Under the source they will indicate, C, for cellular text.
4. Officer safety questions including the involvement of alcohol, drugs, and weapons will be asked.

800.7.5 SOURCE CODE AND CALL TYPE

The source code for all text calls will be "C" and the call type will be T911.

800.7.6 MULTIPLE TEXT-TO-911 CONVERSATIONS

Each dispatcher assigned to Text-to-911 will process no more than two callers or conversations at once. Since multiple text sessions may be handled at once, per dispatcher, the highest priority Text-to-911 will be determined by the nature of the emergency.

Multiple texts, different incidents:

It is imperative that if you receive multiple texts you respond to each message to ensure which call takes priority.

Multiple texts, same incident:

If multiple texts are received about the same call or incident you must respond to each message to ensure that they are indeed related and not a different call.

800.7.7 JURISDICTIONAL BOUNDARIES

The caller is anchored to the originating PSAP until the dispatcher ends the conversation or transfers to another jurisdiction that accepts Text-to-911 calls. Upon successful transfer, the dispatcher may end their respective session by releasing the session.

Callers in a different Jurisdiction:

SMS is an emerging technology and it is possible to receive a text from a caller that is not in your jurisdiction. If the text session enters another jurisdiction, then the incident will be passed on to that agency, either by transferring the session or by relaying all the information by voice.

Callers that travel into a different Jurisdiction - accepts text:

If the caller leaves our jurisdiction the dispatcher will transfer the text session to the agency responsible for that jurisdiction if they are capable of receiving text sessions.

Callers that travel into a different Jurisdiction - does not accept text:

If the receiving agency does not have the capability of receiving text, the original dispatcher will maintain the session and relay the information to the appropriate agency.

800.7.8 MEDICAL/FIRE CALLS

If it is determined that medical or fire suppression attention is necessary, and the responding agency is capable of receiving text sessions, the dispatcher will transfer the call via Text to the

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appropriate agency.

Prior to transfer:

The dispatcher will send a text message to the caller stating, "Please stand by, I am connecting you with Fire/Medical services.

Secondary PSAP cannot accept text sessions:

1. If the appropriate agency cannot process Text-to-911 calls, the dispatcher will direct the caller to make a voice call to 9-1-1.
2. If the caller cannot make a voice call the dispatcher will take the necessary information and verbally turn it over to the correct agency. The dispatcher will then have to verbally update the responding agency as additional information is received, via text messaging

800.7.9 "E" PRIORITY CALLS FOR SERVICE

The dispatcher will keep the text session open to obtain and update officer safety information as well as update the call accordingly until an officer has made contact.

800.7.10 TEXTS RECEIVED IN LANGUAGES OTHER THAN ENGLISH

Only dispatchers who have been recognized by the City of Banning as bi-lingual based on their language skills may answer calls via text in the approved language.

1. If the dispatcher assigned to Text-to-911 is not certified by the aforementioned criteria they will direct the caller to make a voice call to 9-1-1.
2. For callers texting in a language other than Spanish the dispatcher will direct them to make a voice call to 9-1-1.
3. If the dispatcher assigned to Text-to-911 is certified for written Spanish language skills and receives a call in Spanish from someone outside of our jurisdiction who is a member of the Deaf and Hard of Hearing community or in an emergency situation where it is too dangerous to make a voice call the dispatcher will process the call, gathering the necessary information, and contact the correct agency and provide them the information.

At this time, only Spanish, is offered as a second language but language translation services in the EMedia platform are currently in development to address the needs of our constituency.

800.7.11 NON-RESPONSE

Possible emergency:

If there is language within the original text to indicate that there may be a legitimate emergency the dispatcher will message back the following:

"If you have an emergency, text or call 9-1-1."

If there is still no response create a call for service using the type code T911 using the best known location, either latitude/longitude, or address. If there are indications that the circumstances would fit another type code use the most appropriate type code.

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Possible accidental text:

If the language within the original text does not indicate that there is an emergency or that it was a misdial or accidental text the dispatcher will message back the following:

"If you have an emergency, text or call 9-1-1."

800.7.12 ANONYMOUS TEXT

At this time, using the interim Text-to-911 solution, the caller must have a data plan through a wireless carrier so there will not be a truly anonymous text.

If there is an indication that a legitimate emergency is occurring and the caller is non-responsive the dispatcher will create a call for service using the non-responsive protocol.

In addition, the dispatcher will notify the Watch Commander who will in turn follow the protocol for obtaining subscriber information and create a call for service as the situation dictates.

800.7.13 ENDING THE CALL

Confirming the address:

Before ending the call, the dispatcher will advise the caller that the requested assistance is being sent to the address that the caller provided. This will help confirm that the address of the incident location is correct.

For example, "Deputies will be dispatched to 123 W. Main Street in Banning"

Notifying the caller the session will end:

The dispatcher will send the caller a message indicating that the text session has ended and then the dispatcher may end the session by using the Release button. Dispatchers will keep in mind that a text messaging session cannot be restored or initiated by the dispatcher. Text sessions may only be initiated by callers and may only be ended by the dispatcher.

800.7.14 MULTIMEDIA MESSAGE ATTACHMENTS (MMS)

In the unlikely event a text message contains multimedia content, the dispatcher shall not open the content, click any link, or open any dialog box containing the content. Instead, the dispatcher will indicate in the text of the call for service that multimedia content was contained in the text and the time stamp.

800.8 RADIO COMMUNICATIONS

The police radio system is for official use only, to be used by dispatchers to communicate with [department/office] 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 and current location.

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- (b) Dispatchers acknowledging and responding promptly to all radio transmissions.
- (c) Members keeping the dispatcher advised of their status and location.
- (d) Member and dispatcher acknowledgements shall be concise and without further comment unless additional information is needed.

The Dispatch Supervisor shall be notified of radio procedure violations or other causes for complaint. All complaints and violations will be investigated and reported to the complainant's supervisor and processed through the chain of command.

800.8.1 FEDERAL COMMUNICATIONS COMMISSION COMPLIANCE

Banning Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and requirements.

800.8.2 RADIO IDENTIFICATION

Radio call signs are assigned to [department/office] 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/office] 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/office] member. Members initiating communication with other law enforcement or support agencies shall use their entire radio call sign, which includes the [department/office] station name or number.

800.9 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 control number.
- Date and time of request.
- Name and address of the reporting person, if possible.
- Type of incident reported.
- Involvement of weapons, drugs and/or alcohol.
- Location of incident reported.
- Identification of members assigned as primary and backup.
- Time of dispatch.
- Time of the responding member's arrival.
- Time of member's return to service.
- Disposition or status of reported incident.

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800.10 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.

800.11 TRAINING AND CERTIFICATION

Dispatchers shall receive training consistent with minimum standards established by POST (Penal Code § 13510).

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801.1 PURPOSE AND SCOPE

It shall be the policy of the Banning Police Department to adhere to and follow all regulations regarding operation of radio communications equipment established by the appropriate governing agencies and to insure that all employees are instructed in these regulations.

801.2 VOICE RADIO SYSTEM

The voice radio system is a communications system which requires strict adherence to a set of procedures. Unless these procedures are followed, the system will fail. Only one person can transmit on a particular frequency at a time. To conserve airtime and permit all parties to transmit information, it is imperative that messages be kept as brief as possible. Unnecessary use of airtime could promote disastrous results. At the precise moment one transmission is started, another officer may encounter an extreme emergency. The system must also have some procedures which are inherent to the police officer's special job requirements; i.e., pursuit, broadcasting, crimes in-progress, and multiple emergency unit dispatching.

801.3 STANDARD GUIDE FOR RADIO COMMUNICATIONS

Before the specific voice procedures are enumerated, standard rules which govern all radio operation will be reviewed.

- (a) Listen before transmitting. Be sure you have a clear frequency.
- (b) Radio checks and time checks should be held to a minimum.
- (c) Keep messages as brief as clarity will allow.
- (d) Absolutely **NO PROFANITY** is allowed. Profanity is forbidden by Federal Communications Commission (FCC) Regulations.

801.3.1 KNOWLEDGE OF THE CITY

A police officer's actions are frequently initiated in response to a radio transmission. The officer must visualize what is taking place and select a route and method of response to place themselves at the scene quickly and in the most favorable position. Such things as landmarks, businesses, schools, parks, intersections, address numbering systems etc., are invaluable tools which assist officers on their beats.

801.3.2 RADIO CODES

The Banning Police Department has officially adopted the standard TEN "10" CODE as our operating radio code. Some modifications have been made to the TEN CODE in order to facilitate local needs. This code should be used as a matter of routine communications and only deviated from under special circumstances. (See Code Listing).

801.3.3 CLARITY

In order to be understood when transmitting a message, the following rules should be adhered to:

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- (a) Keep the mouth close to the microphone and speak normally. Excess volume will cause the transmitter to over-modulate, thereby distorting the signal.
- (b) Pronounce words distinctly and slowly. The average rate of speech is 90-100 words per minute, but the average person can copy only about 30-35 words per minute using abbreviations.
- (c) Use the TEN "10" CODE whenever possible.
- (d) Choose words that are distinct and forceful in sound and that convey a definite meaning. Arrange all information in proper sequence and in complete detail before transmitting in order that there will be no hesitations.
- (e) Avoid emotion, humor, or excessive emphasis. Emotion tends to distort the voice and render it incapable of being understood. Public safety messages require very little expression, but a high degree of intelligibility.

801.3.4 BREVITY

The following points will assist in keeping radio messages concise:

- (a) Radio transmissions should be brief and to the point. Telephone facilities should be used for all lengthy messages to the Department. To insure correct receipt of a message by the receiving station, attempt to omit superfluous words and phrases such as "WILL DO", "OKAY", "COPY", "CAN DO", "POSSIBLE", "POSSIBLY", "APPROXIMATELY", "AT YOUR CONVENIENCE", "WILL CHECK AND ADVISE", "I BELIEVE", "APPARENTLY, or "YOU ARE COVERED". No excuses or verbal "thank yous" are necessary over the radio. Addition or omission of such phrases and words will not change the meaning of the message.
- (b) Anticipate questions from the receiving station and endeavor to include such information in the first transmission.
- (c) All messages should be impersonal. Use of names, nicknames, and messages not involving public safety business are improper and unprofessional. Never use the name of the person to whom you are speaking, or "I" referring to yourself. Radio systems are not licensed for person-to-person communications.
- (d) The primary reasons for having a Departmental Radio Code are clarity and brevity. In all situations where the established code properly conveys the message, the code should be used.
- (e) Extraneous information concerning the status or result of a call shall not be transmitted. If additional information is needed by dispatch, they may be advised when the officer returns to the station.

801.3.5 ACCURACY

Officers and dispatchers will make every effort to insure the correctness of transmissions. The following points will be kept in mind at all times:

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- (a) Do not guess. Check all doubtful words, or ask for a repeat. Never acknowledge a message until definitely sure that the message is completely understood.
- (b) When asked for a fill-in on transmissions, give only that portion of the message requested, and do not repeat the whole message.
- (c) Correct pronunciation of numerals and letters using approved pronunciation and standard phonetic alphabet (where required) will assist in maintaining accuracy. The phonetic alphabet should not be used to excess. Where required, use phonetics on the first letter of the word and spell the balance using proper pronunciation and enunciation.

801.3.6 PHONETIC ALPHABET

The following words will be used in place of a letter when necessary:

A-Adam	M-Mary
B-Boy	N-Nora
C-Charles	O-Ocean
D-David	P-Paul
E-Edward	Q-Queen
F-Frank	R-Robert
G-George	S-Sam
H-Henry	T-Tom
I-Ida	U-Union
J-John	V-Victor
K-King	W-William
L-Lincoln	X-Xray
	Z-Zebra

Where use of the phonetic alphabet is required for greater clarity, the whole phonetic word should be used in place of the alphabetical letter. EXAMPLE - License DGR 123 will be transmitted as "DAVID GEORGE ROBERT - ONE TWO THREE."

801.3.7 NUMBERS

All numbers should be given as individual numbers and repeated. Always use the word "Zero" and never "Oh."

801.3.8 USE OF NAMES

When transmitting, avoid using names of citizens, victims, or reporting parties. Amateur operators, the general public, the press and even criminals monitor police transmissions. Brief descriptive phrases may be used in place of proper names, i.e., "see the party," "See and/or woman." Only ask for RP's identity if absolutely necessary.

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801.3.9 LONG TRANSMISSIONS

Any transmission longer than 30 seconds should be broken up at 30 second intervals by using the word "break" and waiting for 5 seconds before resuming transmission. This accomplishes two things:

- (a) It allows the station or unit copying to assure that they are receiving message, or if not, to ask for a repeat.
- (b) It allows any other station or unit who may have an emergency transmissions to go ahead without waiting, where seconds might be valuable.

NOTE: SLANG AND POLICE JARGON -The use of police jargon on the radio is not in keeping with law enforcement as a profession. Such terms as "caper," "heist," "kick in," "juvie," "deuce," etc., do not identify the modern well- trained officer, but only tends to place the officer in the same category with any other person who uses poor English. The use of the jargon above as well as other terms of like nature is prohibited in reports, radio transmissions, and .in speaking to citizens.

801.4 FEDERAL COMMUNICATIONS COMMISSIONS (FCC) RULES

Public Safety Radio services are authorized by the Federal Communications Commission and governed by the rules contained in Part 69, Sub-part F. Following is a summary of pertinent rules, which are included here for clarification. This summary does not take the place of the entire text of the Federal Communications Commission Rules and Regulations. These rules, however, except for a few particular regulations, need not be committed to memory. Common courtesy and common sense applied to the use of the radio and radio equipment should provide adequate guidelines for any person employed by this department.

801.4.1 COMMUNICATIONS ACT OF 1934

The rules pertinent to our operations are as follows:

- (a) License suspension may occur if an operator has transmitted superfluous radio communications of signals or communications containing profane or obscene words, language, or meaning or has knowingly transmitted false or deceptive signals or communications, or a call signal or letter which has not been assigned by proper authority to the station they are operating: or
- (b) Has willfully or maliciously interfered with any other radio signals; or
- (c) Has willfully damaged or permitted radio apparatus or installations to be damaged; or
- (d) Has failed to carry out a lawful order of the master or person lawfully in charge of the stations which they are employed to operate.
- (e) The transmission of unnecessary or unidentified signals or correspondence shall be forbidden to all stations.
- (f) Before transmitting, any station must keep watch over a sufficient interval to assure itself that it will cause no harmful interference with the transmissions being made

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within its range; if such interference is likely, the station shall await the first stop in the transmission which it may disturb.

- (g) No one receiving a radio or wire message not intended for the public shall divulge it to anyone except the addressee or his authorized agent or to another station for forwarding, unless required to do so by a court of competent jurisdiction, and no one not entitled to it shall receive any radio or wire communication and use it for their own benefit. The penalty is a fine not exceeding \$10,000 or imprisonment for a term not exceeding two (2) years, or both.
- (h) Any person receiving official notice of a violation of the terms of the Communications Act of 1934, as amended, Treaty, or Rules and Regulations of the Commission shall answer such within 10 days or as otherwise designated. Notify the Chief's office immediately upon receipt of any such notice.
- (i) No log or portion thereof shall be erased, obliterated, or willfully destroyed within the period of retention provided by the rules.
- (j) Logs of a radio station shall be retained by the licensee for a period of one (1) year.
- (k) For all base and fixed stations, the name of the person responsible for the operation of the transmitting equipment each shift shall sign, no initial, the record both when coming on and when going off-duty. It is essential for the operator to sign "off-duty" and "on-duty" when going to lunch in order to alleviate conflict as to who is the "responsible person" at all times. The remaining operator shall sign 'on-duty' when the other operator goes to lunch and 'off-duty' when they return.

801.4.2 COMMON VIOLATIONS

The following are the most common violations:

- (a) Failure to sign "on" and/or "off" duty.
- (b) Time lapse between operators signing "off" and "on" duty.
- (c) Sign "on" the same time other operator signs "off".
- (d) Wrong, and duplication of dates.
- (e) Lack of station identification every 60 minutes our call sign is KNDS859. Complete call signs must be used. Digits alone are the same as an incomplete phone number.

801.4.3 FCC PENALTIES

Title V (General Penalty) - FCC Regulations provide for the following:

- (a) **Section 591** - Any person who willfully and knowingly does or causes or suffers to be done any act, matter, or thing, in this Act prohibited or declared to be unlawful, or who willfully or knowingly omits or fails to any act, matter, or thing in this Act required to be done, or willfully and knowingly causes or suffers such omissions or failure, shall upon conviction thereof, be punished for such offense for which no penalty (other than a

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forfeiture) is provided in this Act, by a fine of not more than \$10,000 or by imprisonment for a term not to exceed two (2) years, or both.

- (b) **Section 502** - Any person who willfully and knowingly violates any rule, regulation, restriction, or condition made or imposed by the Commission under the authority of this Act, or any rule, regulation, restriction, or condition made treaty or convention, or regulations annexed thereto to which the United States is or may hereafter become a party, shall in addition to any other penalties of not more than \$500 for each and every day during which such offense occurs.

801.5 UNAUTHORIZED RADIO EQUIPMENT REPAIR

Such things as unauthorized repairs, tampering, adjusting, or altering radio equipment do not fall under the specialized tasks of police officers or dispatchers and are therefore NOT DONE. Strange noises, unauthorized broadcasts, commercial broadcasts, unsolicited remarks and profanity fall far below the standards of those persons qualified to use police radio equipment. These things are, as might be expected, covered by FCC rules, are subject to penalty, and come clearly under the heading of common sense and common courtesy.

801.6 PRIORITIES (RADIO VS PHONE)

A dispatcher torn between priorities: which to take first - the radio or phone. The radio is always FIRST "priority. A simple call from a Car, perhaps only the call letters, may indicate an emergency situation rapidly developing. In, fact the problem sometimes starts as soon as the officer picks up the microphone. At this point, they may be off balance and have at least one hand busy whether driving or standing outside in contact with a suspect. The suspect is the first to know what the officer has done wrong and this may be the first break in the officer's routine which presents a time for escape or attack. Many officers have developed the practice of sitting on the seat of a patrol unit with their leg out the door while using the radio. There are daily instances of police officers leaning inside an open car door to call on the radio. The dispatchers have been made aware of such bad habits and are cautioned to expect that the next radio transmission may be that of an officer who has just been mashed with a car door or lost his/her weapon by turning their back on a suspect. Granted, these instances are relatively few, but along with innumerable other things, they are happening and BPD is not immune.

801.6.1 MESSAGE PRIORITY

There will always be times when an emergency phone call is being received by the dispatcher and a patrol unit will call on the radio. This may be handled by the dispatcher acknowledging the unit with a stand by call. If your request is also an emergency, you are not faced with a dilemma which cannot be handled. With car-to-car reception, the field problem can frequently be handled by another field unit. If it is a routine request, the field officer should stand by until the station is clear. If the field officer has an emergency situation he may transmit this message to dispatch or another field unit.

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801.7 ASSIGNMENT OF UNITS

The size of our city, volume of calls for police service, and manpower disbursement all require a master plan to assure adequate deployment of police personnel in our community. The department must consider the number of officers which are available for every watch on every day. The dispatcher must be aware of available manpower, its approximate location, and response time at every moment. On-duty units are to be assigned "calls for service" calls in their beat.

- (a) When the on-duty unit is busy and a call should be handled immediately, the closest practical unit will be assigned.
- (b) When the on-duty unit is busy and there is little concern about the time element on a call, the call will be held as common sense dictates. Examples of this type call may be; stolen and recovered bikes (not-in-progress), abandoned cars (where the reporting party is home and there is no emergency, found property, supplementing a previous report, delayed reports, etc.
- (c) Dispatchers will advise beat units of any call for service that cannot wait for a response. It is the officer's responsibility to determine whether to hold the call or respond immediately.

801.7.1 AVAILABILITY OF UNITS

The dispatcher must receive frequent updates from the field units therefore; the following procedure will be followed:

- (a) All units receiving a radio call will acknowledge the call by giving their location. This will be an automatic action and will apply to all calls.
- (b) When an emergency call is assigned to a unit and a back-up, each will respond with their location. Both units respond as determined by the nature of the call.

801.7.2 TEMPORARY BEAT REASSIGNMENT

Another unit will, when the beat unit leaves its assigned area for any length of time, assume beat responsibility extending beyond its own area of responsibility to cover both areas, temporarily, and notify the dispatcher of this status. When the absent unit returns to its area, the other unit will immediately return to its original area and again notify the dispatcher of this status.

801.7.3 UNIT LEAVING ASSIGNED AREA

All units will inform the dispatcher whenever it is required to leave the city.

801.7.4 REPORTING UNIT STATUS

All units shall keep the dispatcher appraised of their status.

If an investigation in the field takes more than 15 minutes, contact should be made with the Communication Center. If an officer does not clear after a lapse of 10 minutes, and the dispatcher is unable to contact either by radio or telephone, another unit should be dispatched for the check. If there is only one unit on-duty, the Watch Commander shall be dispatched for the check.

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801.8 MEANING AND USE OF CODES

801.8.1 CODE 1 MEANING AND USE

Respond at the earliest convenience or as soon as other responsibilities of higher priority permit. No emergency or serious problem is involved, and all traffic laws and regulations are to be observed by the responding unit. Normally, all radio messages are Code 1, however, they are not normally labeled as such.

801.8.2 CODE 2 MEANING AND USE

Respond as soon as possible, temporarily suspending all other activities of a non-emergency nature. Urgency rather than emergency is denoted by this code. Examples of such conditions would be an officer's need for additional equipment or a supervisor for an immediate conference. A backup unit would normally fall under Code 2 classification. Neither red light nor siren is authorized, and all traffic laws and regulations are to be observed.

801.8.3 CODE 3 MEANING AND USE

Respond immediately in emergency status. The use of red lights and siren is recommended, and the unit may proceed as an emergency vehicle in accordance with the provisions of the Vehicle Code. The applicable section of the Vehicle Code is § 21055 which enumerates the section of the Vehicle Code from which a driver of an authorized emergency vehicle is exempt, describes what conditions constitute response by an authorized emergency vehicle, and specifies that both a red lamp visible from the front and the siren shall be utilized as required.

(a) **Elements of Code 3:** A call may justify a Code 3 if any of the following elements are present and, due to circumstances, time loss is important.

1. A serious public hazard. The location, weather conditions, time of occurrence, amount of traffic flow, and other such factors should be considered in making the determination.
2. The preservation of life.
3. Crimes of violence, which includes, but is not limited to robbery in-progress, robbery alarm, shooting, cutting, kidnapping, disturbance with weapons, riot, attack in-progress, assaults in-progress, and violent mental cases.
4. Immediate pursuit.
5. Officer needs help at a scene of an incident which is beyond their capacity to control.

All Code 3 calls will be determined by the Watch Commander, a supervisor or the officer assigned the call if the Watch Commander is not available. The determination will be made with the information available at the time the call is received and with available updated information. The dispatcher will advise responding units to downgrade the response only upon the instruction of a Watch Commander but is responsible for providing updated information on the situation as it becomes available.

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Unauthorized Code 3 runs will not be tolerated because they cause unnecessary risk to personnel, equipment, and citizens. Until such time as police officers are able to instantly appear at places where they know they are needed, law enforcement will have to tolerate the frustration caused by being in the wrong place at the right time.

There will be NO Code 3 escorts. Transportation of injured persons inside the patrol unit is the last choice, and the dispatcher will be notified when such transportation is deemed necessary. Code 3 transportation will be given only in extreme emergency cases, and the dispatcher will be notified prior to its start. The dispatcher will notify the Watch Commander in this instance and shall follow his/her directions, including termination of the Code 3 transportation if instructed. Often times, an ambulance can be available on the scene within a very short time.

Document coded assignments. The dispatcher will document each coded assignment by indicating on the Activity Log each time a coded response is given.

801.8.4 CODE 4 MEANING AND USE

The situation at the scene of an incident is under control and there is no further assistance required or there is no merit to the situation. If a Code 4 is given, units that are not actively involved in the situation should return to normal patrol. When a unit or units are assigned to an emergency, they will usually drive at a higher rate of speed than normal. If the first unit arrives at a scene and advised "Code 4", the incident is either unfounded or an emergency does not exist. The dispatcher will immediately notify the other responding units of the Code 4 status so that they may cancel or slow down as the case may be. This lessens the danger to other units.

801.8.5 CODE 5 MEANING AND USE

The dispatcher and Watch Commander will be informed of all Code 5 operation being conducted by members of this or any other department by any personnel having knowledge of or participating in same. Notice of Code 5 operations will be transmitted to all personnel on-duty by means of telephone or personal contact. Code 5 indicates a stakeout is in-progress and all units are to remain clear of the area unless requested by the personnel conducting the investigation. Code 5 stakeout conducted by officers who desire to have the area remain as normal as possible, including normal patrol by marked units, will be informed in the prescribed manner. Temporary Code 5 stakeout by patrol units will not require formal notification. THE WATCH COMMANDER OR OFFICER-IN-CHARGE OF THE SHIFT WILL BE INFORMED OF ALL CODE 5 SITUATIONS ON THE SHIFT.

801.8.6 OFFICER NEEDS HELP

The 11-99 call is a request for emergency assistance and will be considered an extreme emergency. The request of the officer shall be honored to the letter and 11-99 is an automatic Code 3 response. When an 11-99 is broadcast by a unit in trouble, the dispatcher will attract the attention of any unit not acknowledging immediately. Units will be alerted to the call and ONLY ONE UNIT will respond Code 3. All other units shall respond Code 2 as defined in § 803.82.

If a backup unit is not available, the following procedure will apply:

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NOTE: PROCEDURE (a) AND (b) AND ARE INTERCHANGEABLE AND SHOULD BE DONE QUICKLY AND ALMOST SIMULTANEOUSLY.

- (a) Contact Riverside County Sheriff's Department, California Highway Patrol, or Beaumont Police Department and request backup. Give location of the officer in trouble, nature of the emergency, and ask for estimated time of arrival. (NOTE Determination of what department to call first depends on the location, situation or availability of the agency to respond.)
- (b) The Watch Commander shall be advised of the emergency situation immediately, and follow their instructions.
- (c) Callout available Banning officers when instructed.

801.9 BASIC BROADCAST RULES

- (a) The following basic rules should be kept in mind at all times.
 - 1. Attract the attention of the other party in such a manner that there can be no mistake as to who is being called.
 - 2. Give them a chance to respond,
 - 3. State as briefly as possible what the nature of the call is going to be.
- (b) The following basic broadcast format should be followed:
 - 1. **Address.** The station being called is stated first, followed by the station sending the message. Either address can be Banning (meaning the base station), or an individual's radio number.
 - 2. **Acknowledgement.** The party to whom the message is addressed responds with their radio number. In the case of the base station, the acknowledgement will consist of "Banning -- go ahead (radio number)",
 - 3. **Message.** The sending station then proceeds with the message. If an assignment is being given to a field unit, it will consist of the following five (5) portions in sequence:
 - 4. **Type of call.** This is the Radio Code number as specified to the BPD ten "10" CODE.
 - 5. **Time frame of occurrence.** When applicable, the following terms will be used to aid the officer in planning their arrival and initial actions while still en route:
 - (a) **In-progress** - indicates that the suspect is still at the scene, as far as can be determined.
 - (b) **Just occurred** - means that the incident has been completed for only a few minutes.

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- (c) **Investigation** - is used to indicate that evidence of the crime most likely still exists at the scene although the suspect is gone.
- (d) **Report** - indicates that the incident is cold-- no suspect, little chance of evidence. Little can be done except record the facts as known to the reporting party.
- (e) **Seriousness** - If appropriate, mention will be made here of aggravated circumstances, weapons known or suspected to be involved, or overt acts committed which indicate degree of danger to citizens or officers. Short phrases such as "shots fired", "hostage taken", "fighting", "violent", "knife brandished", etc. should be employed.
- (f) **Who to contact** - This is the description of the individual to be contacted at the scene using terms such as "see the man or woman near the car", or "see the boy or girl", etc.
- (g) **Location of call** - This portion is the address or location to which the officer is to respond.
- (h) **Closing**. The party to which the message is addressed ends the transmission with '10-4' once they are sure that they have copied the message. The officer should record all pertinent information. This will eliminate the necessity of repeat broadcasts

801.9.1 PURSUIT PROCEDURE

The dispatcher will automatically clear the air by saying "10-33", whereupon all units and stations clear the air; (unit number) is in pursuit', and give the location and direction of travel. During the pursuit, provide the dispatcher with information so they may relay to other units. The noise connected with units in pursuit makes it difficult for the units to read one another, car-to- car, but in most cases, they all hear the base station. Banning PD and Interagency Pursuit Polices must be adhered to at all times.

- (a) Speak in a slow calm, clear voice.
- (b) Units knowing the direction of the pursuit will not be as likely to meet at intersections and can plan where to contact the pursuit.
- (c) If a pursuit is started by any Banning PD unit, they will immediately notify the Communications Center using the prescribed manner. The dispatcher will at once clear the air. The officer in pursuit will then automatically give the following:
 - 1. Direction of travel.
 - 2. The name of the street traveled on.
 - 3. The name of the last street crossed.

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- (d) If the pursuit began suddenly and the Communications Center does not already have the information, the license number, make, model, and color of the suspect's vehicle, the number of suspects, and the reason they are wanted must be given. Changes of route need only be indicated by the new direction and new street. Repeat information clearly and calmly as the units in the pursuit broadcast it.

801.9.2 ALL UNITS BROADCAST

All unit broadcasts which relate to wanted persons, wanted vehicles, armed or dangerous persons who pose a threat to our community, will be aired to available units. They will not be held until all units are clear. This may involve giving the broadcast several times, but it is the responsibility of the dispatcher to expedite all calls which identify a possible danger.

- (a) If units have been off the air, information will be provided them when they return to service.
- (b) When non-emergency information is aired to all units and out-of-service units miss the transmission, the information may be provided to them by landline, when convenient, or aired if a short transmission such as cancellations of wanted persons or vehicles, recovered property, etc.

801.9.3 VERIFICATION OF DISPATCH

When transmitting an assignment, do not assume that the unit received the message--BE SURE. If a station or unit does not acknowledge, repeat the message. It is also very important that responding units be advised as quickly as possible when an emergency no longer exists or when a call has been canceled. This allows the unit to resume a normal speed and makes responding to a call less hazardous

801.9.4 PERSONS DESCRIPTION SEQUENCE

Wanted persons should be described as given on the BOL received from any agency. The State of California, Department of Justice, Bureau of Criminal Identification and Investigation (CII) has requested that all law enforcement agencies use standardized abbreviations on all bulletins and crime reports. Note that "Caucasian" is not used and that "Black" is used in place of Negro. Such abbreviations have no racial meaning but are intended as part a physical description. In order to conform to the request of CII and in the interest of standardization and consequent clarity, members of this department will use the following abbreviations in teletypes, and over the radio.

WMA-White Male Adult	BMA-Black Male Adult	HMA-Hispanic Male Adult
WMJ-White Male Juvenile	BMJ-Black Male Juvenile	HMJ-Hispanic Male Juvenile
WFA-White Female Adult	BFA-Black Female Adult	HFA-Hispanic Female Adult
WFJ-White Female Juvenile	BFJ-Black Female Juvenile	HFJ-Hispanic Female Juvenile

801.9.5 STOLEN AND WANTED VEHICLE DESCRIPTION SEQUENCE

Stolen and wanted vehicle should be described as given on the APR received from any agency.

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801.9.6 WANTED BROADCASTS

The broadcast to all units of information pertaining to wanted persons or suspect, frequently armed and in vehicles, comes up quite often. These messages have to be put in order, usually are written down in advance, are usually long, and have to be given so everyone understands them the first time.

- (a) These broadcasts are best given in the order that an officer on patrol might happen onto the suspects involved.
- (b) The first thing the officer must know is the crime, which is second nature to their thinking process and will be quickly filed away in their memory.
- (c) Knowing if the suspect is armed, unarmed, or unknown is vital to the way they will handle an initial contact.
- (d) After their mental receiver has been started in the right direction, the first new thing they might observe on patrol would be a vehicle. It is the largest and most conspicuous detail of the broadcast. They may have just passed it or be right beside it or even recognize it from a previous case.

801.9.7 DRIVER'S LICENSE INFORMATION REQUESTS (10-27)

Whenever officers request driver's license information, they will advise the dispatcher of the name and DOB of the subject, along with the Driver's License Number. When dispatchers respond with the information, they will give the Driver's License Number and the subject's name and DOB shown on the 10-27 return. Any deficiency noted in the identification of the subject will be cleared up before any further action is taken.

801.9.8 WANTED CHECKS ON SUBJECTS (10-29)

Officers requesting such checks will advise the dispatcher of the subject's complete name, DOB, sex, and race. Dispatchers responding with the information requested will give the name and identifying information to the officer as shown on the teletype. Any deficiency noted in the identification of the subject will be corrected before any further action is taken.

801.10 OFFICER RESPONSIBILITIES

All staff issued a department handheld radio working a uniformed assignment shall ensure that the radio remains on at all times while on-duty. Those employees working plain clothes or undercover assignments may choose not to carry a radio / radio turned on depending on the needs of the operation and officer safety.

Property and Evidence

802.1 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.

802.1.1 DEFINITIONS

Definitions related to this policy include:

Property - All articles placed in secure storage within the Evidence Room, 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/Office] 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/Office] 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.

802.2 POLICY

It is the policy of the Banning 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.

802.3 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/Office]. 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.

802.3.1 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:

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- (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.
- (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.

802.3.2 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. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The Evidence Technician is responsible for transporting to the Fire Department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

802.3.3 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. Additionally, a bio-hazard sticker should be placed on the evidence package.
- (b) License plates found not to be stolen or connected with a known crime, should be released directly to the Evidence Technician, or placed in the designated container for return to the Department of Motor Vehicles. No formal property booking process is required.
- (c) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame with a wired tag, not adhered to a bike or frame. The property may be released directly to the Evidence Technician, or placed in the bicycle storage area until a Evidence Technician can log the property.

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- (d) All cash shall be counted in the presence of a supervisor and the envelope initialed by the booking officer and the supervisor. The Watch Commander shall be contacted for cash in excess of \$1,000 for special handling procedures.

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.

802.3.4 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/County Attorney] stating the firearms shall be retained; or
- (b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or
- (c) The Automated Firearms System indicates that the firearm was reported lost or stolen.
 - 1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the [Department/Office] has complied with the requirements of Penal Code § 33850 et seq.

The Evidence Technician shall ensure the Records Supervisor is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (see the Records Bureau Policy).

802.4 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

- (a) Narcotics and dangerous drugs
- (b) Firearms (ensure they are unloaded and booked separately from ammunition)
- (c) Property with more than one known owner
- (d) Paraphernalia as described in Health and Safety Code § 11364
- (e) Fireworks
- (f) Contraband

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802.4.1 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.

802.4.2 PACKAGING NARCOTICS

The officer seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged, and placed into an evidence locker. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the officer's report.

Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size available in the report room. The booking officer shall initial the sealed envelope and the initials covered with cellophane tape. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property tag shall be attached to the outside of the container. The chain of evidence shall be recorded on the back of this tag.

802.5 RECORDING OF PROPERTY

The Evidence Technician receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property control card.

A property number shall be obtained for each item or group of items. This number shall be recorded on the property tag and the property control card.

Any changes in the location of property held by the Banning Police Department shall be noted in the property logbook.

802.6 PROPERTY CONTROL

Each time the Evidence Technician receives property or releases property to another person, he/she shall enter this information on the property control card. Officers desiring property for court shall contact the Evidence Technician at least one day prior to the court day.

802.6.1 RESPONSIBILITY OF OTHER PERSONNEL

Every time property is released or received, an appropriate entry on the Property Computer system shall be completed to maintain the chain of possession. No property or evidence, with the exception of safekeeping and found property, is to be released without first receiving written authorization from a supervisor or investigator.

Request for analysis, for items other than narcotics or drugs, shall be completed on the appropriate forms and submitted to the Evidence Technician. This request may be filled out any time after the booking of property or evidence.

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802.6.2 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 Evidence Technician 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 Bureau for filing with the case.

802.6.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property control card, stating the date, time, and to whom released.

The Evidence Technician 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.

802.6.4 AUTHORITY TO RELEASE PROPERTY

The Detective Bureau shall authorize the disposition or release of all evidence and property coming into the care and custody of the [Department/Office].

802.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

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A Evidence Technician shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Bureau for filing with the case. If some items of property have not been released, the property card will remain with the Evidence Room. Upon release, the proper entry shall be documented in the Property Log.

Under no circumstances shall any firearm, magazine, or ammunition be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The Evidence Room Supervisor should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and, if so, the firearm should not be released to the person while the order is in effect.

The [Department/Office] 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).

802.6.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the [Department/Office], 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/Office] may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

802.6.7 CONTROL OF NARCOTICS AND DANGEROUS DRUGS

The Property Technician will be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of this [department/office], including paraphernalia as described in Health and Safety Code § 11364.

802.6.8 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 Evidence Technician 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).

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802.6.9 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/Office] shall make the firearm or weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ that conforms to the provisions of Penal Code § 33865.
- (c) Unless the person contacts the [Department/Office] 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.

802.6.10 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order, 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 Banning 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.

802.6.11 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION

The [Department/Office] shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met.

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802.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Evidence Technician 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.

802.7.1 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)

802.7.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the [Department/Office] shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than \$15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this [department/office] 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.

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802.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The Evidence Room Supervisor shall ensure that no biological evidence held by the [Department/Office] 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 Investigation 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 Evidence Room Supervisor, or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the [Department/Office] 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 Investigation 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 Investigation 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).

802.7.4 DESTRUCTION OF FIREARMS AND OTHER WEAPONS

The Evidence Room 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
- (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/Office] 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/office] and the other agency

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1. If the [Department/Office] 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 Evidence Room supervisor or the authorized designee should ensure guidelines and procedures relating to the destruction of firearms and other weapons are posted on the Banning Police Department website (Penal Code § 18005).

802.8 INSPECTIONS OF THE EVIDENCE ROOM

- (a) On a periodic basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
- (b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.
- (c) An annual audit of evidence held by the [Department/Office] shall be conducted by a Division Commander (as appointed by the Chief of Police) not routinely or directly connected with evidence control.
- (d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.

Booking of Digital Photographs, Video, and Audio Recordings

803.1 PURPOSE AND SCOPE

The purpose of this General Order is to establish a Department Procedure for the proper booking process of digital photographs, videos, and audio recordings for evidence.

803.1.1 DEFINITIONS

- (a) **Digital Audio:** Digital audio technology is obtained through digital audio recorders. Audio digital files usually contain extensions of .dss, .wav, .wma, .mp3 or .cda. The best format for digital audio is .wav since it can easily be reformatted to several other media sources.
- (b) **Digital Video:** Digital Video technology is obtained through digital video recorders. Digital video involves the conversion of sequenced video stills into digital computer files. Video files are very large and are almost always compressed since uncompressed files can fill up a hard drive rapidly. These types of files usually have the extensions of .mov or .mpeg.
- (c) **Digital Photograph:** Digital Photographs are obtained through the use of digital cameras. This type of file is stored in numerical form. Digital photographs usually have file extensions of .jpg, .tiff, or .bmp. The best format for digital photos is .jpg since this type of file is compressed and does not take up as much space on the hard drive. The file extension of .jpg also can easily be opened by most photo software.

803.1.2 STANDARDS

In order to ensure that digital evidence is collected, preserved or transferred in a method safeguarding the accuracy and reliability of the evidence this department needs to maintain a quality system. Quality control guidelines must be established. These guidelines must be established by keeping in mind generally accepted procedures by the courts and the scientific community. Standards must be reviewed frequently in order to keep up with rapid moving technology. What is appropriate or effective today may not be suitable in the future.

803.2 DIGITAL PHOTOGRAPHY

Photographs taken by Department Personnel should be processed in the following manner:

- (a) The digital camera card should be copied onto a non-rewritable CD before viewing on a computer screen. Photo files should be saved in .jpg file format.
- (b) Label both the CD & CD case with report number, date, time of recording, number of images (photos) and name of person who took the photos. In addition, place the following remark on the front of the CD case: "This certifies that the digital media contained on this CD/video tape was recorded directly from the digital camera card/ original digital video cassette/digital audio recorder prior to screening on the computer.

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The undersigned officer certifies that this digital media is therefore identical to the digital photos/digital video/digital audio taken at the scene".

- (c) Once a copy of the photographs is on a CD, the digital files can be viewed safely. In this manner there is no concern with accidentally erasing the photos. The original image remains on the CD and should never be altered. The copied CD can be placed into evidence as an original copy.
- (d) Department Personnel can now view, print or enhance the photographs off a CD. Keep in mind that any changes that are made to the photos have to be documented in written form. If the enhanced photos are used in court they can be challenged. The defense has the right to know how the changes were made and what was changed. Make sure you keep good notes on the enhancement process if you do alter the original photo. The notes should be such that the process of enhancement/alteration can be repeated with the same final results.
- (e) Erase all images of the photographs from the digital camera card and computer at the completion of the booking process.

803.3 DIGITAL VIDEO

Digital video taken by Department Personnel should be processed in the following manner:

- (a) Video recorded off a digital video recording camera shall be copied unto a non-rewritable CD or standard VHS analog cassette tape. The digital video will be converted to MPEG compression format that is the most standard format to work with. The original copy of the digital recording will remain unaltered in the evidence locker. The digital video will not be stored into a computer database because of the tremendous amount of memory space necessary to store digital video.
- (b) Any other copies can be used as a working copy. The working copy can then be enhanced or changed at the officer's discretion. Copies for Discovery will be made off the original digital video recording. Alterations should be documented in written case notes. The notes should be detailed enough where trained personnel can repeat the steps and produce the same results when the image is subjected to image analysis.
- (c) The CD(s) or VHS cassette tape will be labeled in the same manner as the digital photographs.

803.4 DIGITAL AUDIO

Digital Audio taken by Department Personnel should be processed in the following manner:

- (a) Digital audio taken from a digital audio recorder will be downloaded to a non-rewritable CD. The CD will then be placed into evidence. The audio recording will be copied to .WAV format.
- (b) The labeling of the CD will be made in the same manner as other digital media copies.

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- (c) If enhancement is needed, any changes to the audio recording should be documented in written case notes. The notes should be detailed enough where trained personnel can repeat the steps and produce the same results when the recording is subjected to audio analysis.

803.5 MEDIA STORAGE

All media will be store in a secure area with access restricted to authorized people. Recordings not otherwise needed for official reasons shall be retained for a period of not less than one year and thereafter should be erased with the written consent of the City Attorney. Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures. (Government Code § 34090.6).

Records Bureau

804.1 PURPOSE AND SCOPE

The Records Manager shall maintain the Department Records Bureau Procedures Manual on a current basis to reflect the procedures being followed within the Records Bureau. Policies and procedures that apply to all employees of this Department are contained in this chapter.

804.1.1 NUMBERING SYSTEM

Reports are numbered based upon a numbering system generated by the CAD/RMS system at the time a call is initiated.

804.2 POLICY

It is the policy of the Banning Police Department to maintain [department/office] records securely, professionally, and efficiently.

804.3 RESPONSIBILITIES

804.3.1 RECORDS SUPERVISOR

The Chief of Police shall appoint and delegate certain responsibilities to a Records Supervisor. The Records Supervisor shall be directly responsible to the Administration Division Commander or the authorized designee.

The responsibilities of the Records Supervisor include but are not limited to:

- (a) Overseeing the efficient and effective operation of the Records Bureau
- (b) Maintaining and updating a Records Bureau procedure manual.
- (c) Ensuring compliance with established policies and procedures.
- (d) Supervising the access, use, and release of protected information (see the Protected Information Policy).
- (e) 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/office] members or public officials.
 - 3. Any case where restricted access is prudent.

804.3.2 RECORDS BUREAU

The responsibilities of the Records Bureau include but are not limited to:

- (a) Maintaining a records management system for case reports.
 - 1. The records management system should include a process for numbering, identifying, tracking, and retrieving case reports.
- (b) Entering case report information into the records management system.

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1. Modification of case reports shall only be made when authorized by a supervisor.
- (c) Providing members of the [Department/Office] 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/Office] 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

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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 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/office]'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.

804.3.3 RECORDS BUREAU PROCEDURE MANUAL

The Records Supervisor 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 and wanted persons file.

804.4 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by officers of the Banning Police Department and no accusatory pleading has been filed, the person arrested may petition the [Department/Office] to destroy the related arrest records. Petitions should be forwarded to the Administration Supervisor. The Administration Supervisor should promptly contact the prosecuting attorney and request a written opinion as to whether the petitioner is factually innocent of the charges (Penal Code § 851.8). Factual innocence means the accused person did not commit the crime.

Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the Administration Supervisor should forward the petition to the Chief of Police or their designee and the City Attorney for review. After such review and consultation with the City Attorney, the Detective Bureau Supervisor and the Administration Supervisor shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Administration Supervisor shall ensure that the arrest record and petition are sealed for later destruction and the

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required notifications are made to the California DOJ and other law enforcement agencies (Penal Code § 851.8).

The Administration Supervisor should respond to a petition with the [Department/Office]'s decision within 45 days of receipt. Responses should include only the decision of the [Department/Office], not an explanation of the analysis leading to the decision.

[See attachment: 2016 Detention Certificate-849\(b\) Protocols.pdf](#)

804.5 FILE ACCESS AND SECURITY

The security of files in the Records Bureau must be a high priority and shall be maintained as mandated by state or federal law. All case reports including but not limited to initial, supplemental, follow-up, evidence, and any other reports related to a police [department/office] case, including field interview (FI) cards, criminal history records, and publicly accessible logs, shall be maintained in a secure area within the Records Bureau, accessible only by authorized members of the Records Bureau. Access to case reports or files when Records Bureau staff is not available may be obtained through the Watch Commander.

The Records Bureau will also maintain a secure file for case reports deemed by the Chief of Police as sensitive or otherwise requiring extraordinary access restrictions.

804.6 ORIGINAL CASE REPORTS

Generally, original case reports shall not be removed from the Records Bureau. Should an original case report be needed for any reason, the requesting [department/office] member shall first obtain authorization from the Records Supervisor. All original case reports removed from the Records Bureau shall be recorded on a designated report check-out log, which shall be the only authorized manner by which an original case report may be removed from the Records Bureau.

All original case reports to be removed from the Records Bureau shall be photocopied and the photocopy retained in the file location of the original case report until the original is returned to the Records Bureau. The photocopied report shall be shredded upon return of the original report to the file.

804.7 CONFIDENTIALITY

Records Bureau staff has access to information that may be confidential or sensitive in nature. Records Bureau staff shall not access, view, or distribute, or allow anyone else to access, view, or distribute any record, file, or report, whether in hard copy or electronic file format, or any other confidential, protected, or sensitive information except in accordance with the Records Maintenance and Release and Protected Information policies and the Records Bureau procedure manual.

804.8 ARREST WITHOUT FILING OF ACCUSATORY PLEADING

The Patrol Division 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):

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- (a) The individual is issued a certificate describing the action as a detention.
- (b) All references to an arrest are deleted from the arrest records of the [Department/Office] and the record reflects only a detention.
- (c) The California DOJ is notified.

Restoration of Firearm Serial Numbers

805.1 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.

805.2 PROCEDURE

Any firearm coming into the possession of the Banning Police Department as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

805.2.1 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.

805.2.2 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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805.2.3 OFFICER RESPONSIBILITY

The Evidence Technician 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.

805.2.4 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 from the Banning Police Department.

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.

805.2.5 FIREARM TRACE

After the serial number has been restored (or partially restored) by the criminalistics laboratory, the Evidence Technician 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.

805.3 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.

Records Maintenance and Release

806.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of [department/office] records. Protected information is separately covered in the Protected Information Policy.

806.2 POLICY

The Banning 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.).

806.3 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/Office], including the retention, archiving, release, and destruction of [department/office] public records.
- (b) Maintaining and updating the [department/office] records retention schedule including:
 - 1. Identifying the minimum length of time the [Department/Office] must keep records.
 - 2. Identifying the [department/office] division responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of [department/office] 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/office]'s website may be used to post public records in accordance with Government Code § 7922.545.
- (h) Ensuring that all [department/office] current standards, policies, practices, operating procedures, and education and training materials are posted on the [department/office] website in accordance with Penal Code § 13650.
- (i) Ensuring that public records posted on the [Department/Office] 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

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in a prominent location on the [Department/Office]'s website (Government Code § 7922.710; Government Code § 7922.720).

806.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any [department/office] member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

806.4.1 REQUESTS FOR RECORDS

Any member of the public, including the media and elected officials, may access unrestricted records of this [department/office], 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/Office] 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/office] 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/Office] 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/office] 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/Office]. 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/office]-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).

806.5 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/office] record, including traffic collision reports, are restricted except as authorized by the [Department/Office], 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/office] (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/office]'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).

806.6 RELEASED RECORDS TO BE MARKED

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the [department/office] name and to whom the record was released.

Each audio/video recording released should include the [department/office] name and to whom the record was released.

806.7 SEALED RECORD ORDERS

Sealed record orders received by the [Department/Office] shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once the record is sealed, members shall respond to any inquiry as though the record did not exist (Penal Code § 851.8; Welfare and Institutions Code § 781).

When an arrest record is sealed pursuant to Penal Code § 851.87, Penal Code § 851.90, Penal Code § 851.91, Penal Code § 1000.4, or Penal Code § 1001.9, the Records Supervisor shall ensure that the required notations on local summary criminal history information and police investigative reports are made. Sealed records may be disclosed or used as authorized by Penal Code § 851.92.

806.7.1 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 Supervisor should ensure that the records are sealed within 60 days of that notice and that the probation department is notified once the records have been sealed (Welfare and Institutions Code § 786.5).

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Upon receiving a list of juvenile arrest records that are eligible to be sealed from the California Department of Justice (DOJ), the Records Supervisor 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 Supervisor or the authorized designee shall electronically report to the DOJ which records were sealed (Welfare and Institutions Code § 781.2).

806.8 SECURITY BREACHES

The Records Supervisor shall ensure notice is given anytime there is a reasonable belief an unauthorized person has acquired either unencrypted personal identifying information or encrypted personal information along with the encryption key or security credential stored in any [Department/Office] 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/Office] determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following (Civil Code § 1798.29):

- (a) Social Security number
 - 1. Driver license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual
 - 2. Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account
 - 3. Medical information
 - 4. Health insurance information
 - 5. Information or data collected by Automated License Plate Reader (ALPR) technology
 - 6. Unique biometric data
 - 7. Genetic data
- (b) A username or email address, in combination with a password or security question and answer that permits access to an online account

806.8.1 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:

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1. The date of the notice.
 2. Name and contact information for the Banning 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 Banning Police Department has done to protect individuals whose information has been breached and may include information on steps that the person whose information has been breached may take to protect him/herself (Civil Code § 1798.29).
- (c) When a breach involves an online account, and only a username or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached (Civil Code § 1798.29):
1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the [Department/Office] 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 Banning 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.

806.8.2 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/Office] does not have sufficient contact information. Substitute notice shall consist of all of the following:

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- (a) Email notice when the [Department/Office] has an email address for the subject person.
 - (b) Conspicuous posting of the notice on the [department/office]'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/Office] to notify more than 500 California residents, the [Department/Office] shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the Attorney General.

806.9 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.

806.9.1 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/Office] 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/Office] demonstrates that disclosure would substantially interfere with the investigation.
- (c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (Government Code § 7923.625).

806.9.2 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):

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- (a) During the initial 45 days, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.
- (a) When delay is continued after the initial 45 days, the Custodian of Records shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The Custodian of Records should work with the Chief of Police in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

806.9.3 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/Office] 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).

806.9.4 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/Office] 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.
- (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/Office] determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the

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requester with written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 7923.625).

The [Department/Office] 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).

Protected Information

807.1 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 Banning Police Department. This policy addresses the protected information that is used in the day-to-day operation of the [Department/Office] and not the public records information covered in the Records Maintenance and Release Policy.

807.1.1 DEFINITIONS

Definitions related to this policy include:

Protected information - Any information or data that is collected, stored or accessed by members of the Banning 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.

807.2 POLICY

Members of the Banning 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.

807.3 RESPONSIBILITIES

The Chief of Police shall select a member of the [Department/Office] 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 Banning 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.

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- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

807.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Banning 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.

807.4.1 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).

807.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Records Supervisor for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the [Department/Office] may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Records Bureau to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

807.5.1 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/Office] after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).

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807.5.2 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/office] 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 MDT or [department/office]-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.

807.6 SECURITY OF PROTECTED INFORMATION

The Chief of Police will select a member of the [Department/Office] 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.

807.6.1 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).

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807.7 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.

807.8 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not release personal information from any agency database for the purpose of investigation or enforcement of any program compiling data on individuals based on religious belief, practice, affiliation, national origin or ethnicity (Government Code § 8310.3).

Records Destruction Procedure

808.1 PURPOSE AND SCOPE

Government Code § 34090 provides that the head of a city department may destroy certain city records, documents, or instruments under his charge, without duplication, with the approval of the City Council by resolution and with the written consent of the City Attorney. This procedure set in place by the City Council of the City of Banning and with the written consent of the City Attorney of the City of Banning allows records of the Banning Police Department that are no longer needed and are no longer required to be retained by law, without making a copy thereof, to be destroyed.

808.2 PROCEDURE

808.2.1 ONE HUNDRED EIGHTY DAY RETENTION

The following records will be retained for one hundred eighty days and subsequently destroyed:

- (a) Routine daily tape recordings of telephone and radio communications
- (b) Transmittal forms
- (c) Citations issue forms
- (d) CLETS teletypes: All incoming and outgoing teletypes not connected with an Banning Police Department case

808.2.2 TWO YEAR RETENTION

The following records will be retained for two years and may subsequently be destroyed:

- (a) Citizen on Patrol requests
- (b) Parking citations
- (c) Repossession reports
- (d) Records of Reserve Police service assignments
- (e) E-911 print outs
- (f) Receipts and petty cash information
- (g) Monthly reports, both State and City
- (h) Daily activity records and Watch Commander logs.
- (i) Payroll slips: Overtime, time-off, sick leave
- (j) Expired Police Department issued permits and licenses including applications and related documentation (also includes all applications and supporting documentation where no permit or license was issued, from the date of notice of denial or withdrawal).
- (k) Those § 11590 Health and Safety and § 290 Penal Code registrant files which have been either ordered purged by the Court of when the subject of record is deceased

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- (l) § 11590 Health and Safety and § 290 Penal Code registrant files which have been either ordered purged by the court or when to subject of record is deceased.
- (m) Auction receipts
- (n) Lost/Found property reports
- (o) Miscellaneous non-criminal reports
- (p) Field Interview cards

808.2.3 THREE YEAR RETENTION

- (a) The following records will be retained for three years and may subsequently be destroyed:
 - 1. Expired bicycle licenses and related log sheets
 - 2. Traffic citations
 - 3. Misdemeanor crime reports including investigative working files, providing that:
 - (a) There is no outstanding warrant related to the report
 - (b) There is no property outstanding in DOJ or NCIC
 - (c) There is no death connected with the report
 - (d) They are not involved in civil or criminal litigation
 - (e) They do not involve a Banning City employee
 - (f) They do not relate to an arrest
 - 4. Missing persons reports which have been cleared
 - 5. Runaway reports, where the subject has returned, or has reached his/her eighteenth birthday
 - 6. Stored/impounded vehicle reports
 - 7. Firearms registration
 - 8. Pawn reports
 - 9. Injury/overdose/attempt suicide reports not resulting in death
 - 10. All complaint reports determined not to describe criminal action
 - 11. Misdemeanor citations
 - 12. Traffic accident investigation reports including investigative working files, where no fatality occurred, providing that:
 - (a) There is no outstanding warrant related to the report
 - (b) They are not involved in civil or criminal litigation

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- (c) They do not involve a Banning City employee
- (b) Background investigations of applicants for positions with the Department when the applicant was not hired.
- (c) Personnel records concerning recruitment, hiring and promotional process time period for which will commence on the expiration date of the eligibility list for the affected process.

808.2.4 FIVE YEAR RETENTION

The following records will be retained for five years and may subsequently be destroyed:

- (a) Felony crime reports including investigative working files, provided that:
 - 1. There is no outstanding warrant related to the report
 - 2. There is no property outstanding in DOJ or NCIC
 - 3. There is no death connected with the report
 - 4. They are not classified under §§ 799,800,290 Penal Code or 1185
- (b) Personnel complaints initiated by the Police Department against Department employees, together with any investigations, reports and/or findings providing such documents are not evidence in any claim filed or pending litigation {or potential litigation}, in which case, such documents shall be preserved for five years after the conclusion of litigation.
- (c) General correspondence
- (d) Criminal Intelligence Reports
- (e) Subpoena log
- (f) Citizen initiated complaints against Department employees, together with investigations, reports and/or findings providing such documents are not evidence in any claim filed or pending litigation (or potential litigation), in VI case, such documents shall be preserved for five years after the conclusion of litigation.
- (g) Ex-employee personnel records

808.2.5 SEVEN YEAR RETENTION

The following records will be retained for seven years and may subsequently be destroyed:

- (a) Outstanding stolen vehicle reports
- (b) Felony arrests, unless disposition indicates that the defendant is still incarcerated

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808.3 MAJOR CRIMES

The records specified in this general order do not include any documents relating to capital crimes, embezzlement of public funds, bribery of public officials, reports involving employees or any prisoner arrest files of child 'abuse reports, except as noted.

808.4 CLAIMS AGAINST THE CITY

This does not grant authority for the destruction of any records or file where a claim against the City has been filed and that claim is subject to adjudication.

Seizure of Computers and Related Evidence

809.1 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.

809.2 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.

809.2.1 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.

809.2.2 FORENSIC EXAMINATION OF COMPUTERS

If an examination of the contents of the computer's hard drive, or floppy disks, compact discs, or any other storage media is required, forward the following items to a computer forensic examiner:

- (a) Copy of report(s) involving the computer, including the Evidence/Property sheet.
- (b) Copy of a consent to search form signed by the computer owner or the person in possession of the computer, or a copy of a search warrant authorizing the search of the computer hard drive for evidence relating to investigation.
- (c) A listing of the items to search for (e.g., photographs, financial records, e-mail, documents).
- (d) An exact duplicate of the hard drive or disk will be made using a forensic computer and a forensic software program by someone trained in the examination of computer storage devices for evidence.

809.3 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 Evidence Room to copy the contents to an appropriate form of storage media.
- (c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.

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Seizure of Computers and Related Evidence

- (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.

809.4 SEIZING PCDS

Personal communication devices such as cell phones, PDAs or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

- (a) Officers should not attempt to access, review or search the contents of such devices prior to examination by a forensic expert. Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages.
- (b) Do not turn the device on or off. The device should be placed in a solid metal container such as a paint can or in a faraday bag, to prevent the device from sending or receiving information from its host network.
- (c) When seizing the devices, also seize the charging units and keep them plugged in to the chargers until they can be examined. If the batteries go dead all the data may be lost.

Animal Control

810.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for interacting with animals and responding to calls for service that involve animals.

810.2 [ANIMAL CONTROL] RESPONSIBILITIES

Animal control services are generally the primary responsibility of [Animal Control] and include:

- (a) Animal-related matters during periods when [Animal Control] is available.
- (b) Ongoing or persistent animal nuisance complaints. Such complaints may be scheduled, if reasonable, for handling during periods that [Animal Control] is available for investigation and resolution.
- (c) Follow-up on animal-related calls, such as locating owners of injured animals.

810.3 MEMBER RESPONSIBILITIES

Members who respond to or assist with animal-related calls for service should evaluate the situation to determine the appropriate actions to control the situation.

Due to the hazards of handling animals without proper training and equipment, responding members generally should not attempt to capture or pick up any animal, but should keep the animal under observation until the arrival of appropriate assistance.

Members may consider acting before the arrival of such assistance when:

- (a) There is a threat to public safety.
- (b) An animal has bitten someone. Members should take measures to confine the animal and prevent further injury.
- (c) An animal is creating a traffic hazard.
- (d) An animal is seriously injured.
- (e) The owner/handler of an animal has been arrested or is incapacitated. In such circumstances, the member should find appropriate placement for the animal.
 - 1. This is only necessary when the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animal.
 - 2. With the owner's consent, locating appropriate placement may require contacting relatives or neighbors to care for the animal.
 - 3. If no person can be found or the owner does not or cannot give consent, the animal should be taken to a designated animal care facility.

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810.4 DECEASED ANIMALS

When a member becomes aware of a deceased animal, all reasonable attempts should be made to preliminarily determine if the death of the animal is related to criminal activity.

Deceased animals on public property should be removed, sealed in a plastic bag, and properly disposed of by the responding member.

Members should not climb onto or under any privately owned structure for the purpose of removing a deceased animal.

When handling deceased animals, members should attempt to identify and notify the owner of the final disposition of the animal.

810.5 INJURED ANIMALS

When a member becomes aware of an injured domesticated animal, all reasonable attempts should be made to contact an owner or responsible handler. If an owner or responsible handler cannot be located, the animal should be taken to a veterinarian and notice shall be given to the owner pursuant to the requirements of Penal Code § 597.1.

810.5.1 VETERINARY CARE

The injured animal should be taken to a veterinarian as follows:

- (a) During normal business hours, the animal should be taken to an authorized veterinary care clinic.
- (b) If after normal business hours, the animal should be taken to the authorized Veterinary Emergency and Critical Care Services Clinic.
- (c) An exception to the above exists when the animal is an immediate danger to the community or the owner of the animal is identified and takes responsibility for the injured animal.

Each incident shall be documented and, at minimum, include the name of the reporting party and veterinary hospital and/or person to whom the animal is released.

If [Animal Control] is not available, the information will be forwarded for follow-up.

810.5.2 INJURED WILDLIFE

Injured wildlife should be referred to the Department of Fish and Wildlife or the Marine Mammal Center as applicable.

810.5.3 RESCUE OF ANIMALS IN VEHICLES

If an animal left unattended in a vehicle appears to be in distress, members may enter the vehicle for the purpose of rescuing the animal. Members should (Penal Code § 597.7(d)):

- (a) Make a reasonable effort to locate the owner before entering the vehicle.
- (b) Take steps to minimize damage to the vehicle.
- (c) Refrain from searching the vehicle or seizing items except as otherwise permitted by law.

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- (d) Leave notice on or in the vehicle identifying the location where the animal has been taken and the name and [Department/Office] of the member involved in the rescue.
- (e) Make reasonable efforts to contact the owner or secure the vehicle before leaving the scene.
- (f) Take the animal to an animal care facility, a place of safekeeping or, if necessary, a veterinary hospital for treatment.

810.6 POLICY

It is the policy of the Banning Police Department to be responsive to the needs of the community regarding animal-related issues. This includes enforcing local, state and federal laws relating to animals and appropriately resolving or referring animal-related problems, as outlined in this policy.

810.7 ANIMAL CRUELTY COMPLAINTS

Laws relating to the cruelty to animals should be enforced, including but not limited to Penal Code § 597 et seq. (cruelty to animals, failure to care for animals).

- (a) An investigation should be conducted on all reports of animal cruelty.
- (b) Legal steps should be taken to protect an animal that is in need of immediate care or protection from acts of cruelty.

810.8 ANIMAL BITE REPORTS

Members investigating an animal bite should obtain as much information as possible for follow-up with the appropriate health or animal authorities. Efforts should be made to capture or otherwise have the animal placed under control. Members should attempt to identify and notify the owner of the final disposition of the animal.

810.9 STRAY DOGS

If a stray dog has a license or can otherwise be identified, the owner should be contacted, if possible. If the owner is contacted, the dog should be released to the owner and a citation may be issued, if appropriate. If a dog is taken into custody, it shall be transported to the appropriate animal care facility.

Members shall provide reasonable treatment to animals in their care (e.g., food, water, shelter).

810.10 DANGEROUS ANIMALS

In the event responding members cannot fulfill a request for service because an animal is difficult or dangerous to handle, the Watch Commander will be contacted to determine available resources, including requesting the assistance of animal control services from an allied agency.

810.11 PUBLIC NUISANCE CALLS RELATING TO ANIMALS

Members should diligently address calls related to nuisance animals (e.g., barking dogs), as such calls may involve significant quality-of-life issues.

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810.12 DESTRUCTION OF ANIMALS

When it is necessary to use a firearm to euthanize a badly injured animal or stop an animal that poses an imminent threat to human safety, the Firearms Policy shall be followed. A badly injured animal shall only be euthanized with the approval of a supervisor.

CHEMICAL CAPTURE PROJECTILE SYSTEMS

811.1 CHEMICAL CAPTURE PROJECTILE SYSTEMS

The Pneudart gauged projector is intended for use in those situations where a wild, fractious, or dangerous animal needs to be captured in the interest of public safety and the use of force is authorized pursuant to existing department policy.

811.2 PROGRAM COORDINATOR

A Department Rangmaster/Armorer will be designated as the program coordinator. The program coordinator's responsibilities shall include the following:

- (a) Inspection and maintenance of all program related equipment;
- (b) Inventory and ordering of equipment and supplies;
- (c) Maintaining training records related to the program;
- (d) Training all sworn personnel in the use and deployment of the Pneudart gauged projector system.
- (e) Maintain the air supply for refilling all Pneudart gauged projector systems.

811.3 LAUNCHERS

The launchers shall be stored within the station between shifts and employees authorized to carry the weapon will sign out the equipment if use of the system is warranted.

811.4 PROJECTILES

- (a) The only projectiles to be used in the Pneudart gauged projector are the Pneudart RDD devices that are approved by the department range staff and only designated Pneudart gauged projector are to be used to fire the projectiles.
- (b) There are several different types of projectiles for the Pneudart gauged projector. Only four types of projectiles will be utilized by the Banning Police Department, as follows:
 - 1. Type U RDD. These projectiles are either opaque in color and ranging in size from 0.5 CC- 2.0 CC, or aluminum and ranging in size from 3.0 CC-5.0 CC. The tail of these darts will be orange and yellow with flare. These darts are to be filled prior to use with the appropriate amount of required medication and filled to capacity with sterile water to ensure no leakage.
 - 2. Type P RDD. These projectiles are either opaque in color and ranging in size from 0.5 CC- 2.0 CC, or aluminum and ranging in size from 3.0 CC-5.0 CC. The tail of these darts is solid yellow. These darts are to be filled prior to use with the appropriate amount of required medication and filled to capacity with sterile water to ensure no leakage.
 - 3. Type U RDD Training rounds- This projectile is blue in color for sizes 0.5 CC-2.0 CC or aluminum for sizes 3.0 CC- 5.0 CC. The tail of these darts will be blue, yellow and orange with flare. These projectiles are for training purposes and are

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not for use in the field. These projectiles are not to be stored with the launcher and shall not be carried in the field.

4. Type P RDD Training rounds- This projectile is blue in color in color with a yellow tail for sizes 0.5 CC-2.0 CC or aluminum with a blue and yellow tail for sizes 3.0 CC- 5.0 CC. These projectiles are for training purposes and are not for use in the field. These projectiles are not to be stored with the launcher and shall not be carried in the field.

811.5 DEPLOYMENT

Officers encountering a situation that warrants the use of a Pneudart gauged projector shall notify a supervisor as soon as practical.

- (a) A supervisor shall respond to all Pneudart gauged projector system deployments where the animal 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.
- (b) Whenever possible, the supervisor in control of the incident should not be the individual using the Pneudart gauged projector. The intent of this suggestion is that the employee responsible for control of the incident remains as a supervisor and decision-maker. For this reason, supervisors should delegate the Pneudart gauged projector deployment to a trained employee.
- (c) Employees who are authorized to carry the Pneudart gauged projector in their patrol unit shall note the launcher number on the watch commander log. The employee is responsible for inspecting the equipment at the beginning of his/her shift. The inspection should include:
 1. The CO2 tank shall be attached to the Pneudart gauged projector with the on/off knob in the off position.
 2. The launcher should be free from visible damage and shall have no projectiles in the chamber.
 3. The Pneudart gauged projector related equipment is to be secured in an additional locked supply case. The case should also be checked for visible damage. It is important that the launcher and attachments be stored in the appropriate cases to prevent damage.
 4. The Pneudart gauged projector RDD and necessary supplies to load darts shall be assigned to the projector and must be logged out with the projector. Damaged projectiles and any unsterile hypodermic needles must be disposed of in the proper manner.
 5. Use of any controlled substances must be logged with the amount used and incident information on the appropriate forms.

811.6 USE

- (a) The Pneudart gauged projector may be used under the following circumstances:

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1. When an animal exhibits violent or potentially violent behavior that threatens the safety of others and attempts to contain the animal may present significant danger to the responding officers or the general public.
 2. When an animal is fearful and presents a significant risk to human life if left at large.
 3. Wildlife that requires removal with the assistance of CA Fish and Wildlife.
 4. Feral animals or large livestock which cannot be handled safely.
- (b) When the decision is made to use the Pneudart gauged projector, the following factors shall be taken into consideration:
1. Whenever possible, at least one other officer should be present and in close proximity at a scene before the Pneudart gauged projector is deployed in order to provide lethal cover if it becomes necessary.
 2. Whenever possible, other personnel present should be alerted to the imminent use of the Pneudart gauged projector.
 3. Target areas for deployment are areas of the body, which may, depending on species size and body condition, include the shoulder area (avoiding the area around scapula-humeral joint), the hindquarter (avoiding the area overlying the femur), and the base of the neck.
 4. Extreme caution must be taken to prevent unintentionally striking the animal in the head, spine, shoulder, femur, and groin.
 5. The projectiles are likely to ricochet off hard surfaces with sufficient energy to cause injury and care should be taken to avoid the risk of ricochet.
 6. Pneudart RDD projectiles are plastic or aluminum dart syringes that are filled with chemical sedation. Because the compressed gas, the Pneudart gauged projector delivers the projectiles with enough force to inject the medication on impact, shot placement of projectiles shall be consistent with instruction provided through the department approved training program with the understanding the potential exists for the projectiles to inflict severe internal injury and/or death to the animal if they strike the head, neck, spine or groin. Therefore, officers deploying the Pneudart gauged projector should not intentionally target those areas.
 7. Pneudart RDD Projectiles are plastic or aluminum dart syringes that are filled with chemical sedation and accidental discharge or delivery of the projectile may deliver an unintended dose of sedation medication. PPE shall be used when loading or handling loaded Pneudart RDD to prevent any exposure to medications.

811.7 FOLLOW-UP MEDICAL TREATMENT

- (a) Following the use of the Pneudart gauged projector, an immediate assessment shall be made to ensure that no injuries have been sustained. If injuries have occurred, appropriate medical treatment shall be obtained for the animal.

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- (b) Any animal who is darted with Chemical capture shall be monitored from the time of injection until animal has fully recovered from sedation. Any animal showing signs of complication from chemical capture shall be transported to the nearest Veterinary clinic for treatment.
- (c) Projectiles shall not be removed with force and must be removed with veterinary instruction or care.
- (d) Any animal that dies after chemical capture shall have a necropsy performed to rule out misuse of the Pseudart gauged projector or medication.

811.8 POST INCIDENT INSTRUCTION

- (a) All Projectiles fired must be collected prior to leaving the scene of the incident and location documented.
- (b) All projectiles and used hypodermic needles shall be collected while wearing PPE and disposed of in sharps containers after documented.

811.9 REPORTING

- (a) Photographs shall be taken of any injury sustained after the injuries have been evaluated, treated (if necessary), and cleaned. The photographs and/or film shall be logged into evidence under the report number.
- (b) The following information shall be included in the report:
 - 1. Approximate number of projectiles fired.
 - 2. Number of impacts on the animal.
 - 3. The distance between the animal and engaging officer at the time of deployment.
 - 4. Any injuries and medical treatment provided.
 - 5. Any third-party contamination or impact.
- (c) Each deployment of a Pseudart gauged projector system shall be documented. Unintentional discharges shall be promptly reported to a supervisor and documented appropriately. Only non-incident use of a Pseudart gauged projector, such as training and product demonstrations, is exempt from the reporting requirement.

Chapter 9 - Custody

Custodial Searches

900.1 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 Banning Police Department facility. Such items can pose a serious risk to the safety and security of [department/office] 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.

900.1.1 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.

900.2 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.

900.3 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/office] 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.

900.4 SEARCHES AT POLICE FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to the Banning Police Department facilities. Except in exigent circumstances, the search should be conducted by

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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.

900.4.1 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/office], 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/office] member. The inventory should include the case number, date, time, member's Banning Police Department identification number and information regarding how and when the property may be released.

900.4.2 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/office] 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.

900.5 STRIP SEARCHES

No individual in temporary custody at any Banning 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/office] 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).

900.5.1 STRIP SEARCH PROCEDURES

Strip searches at Banning 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.

900.5.2 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.

900.6 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/office] 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/office] 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.

900.7 TRAINING

The Training Sergeant 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.

900.8 BODY SCANNER SEARCH

If a body scanner is available, a body scan search should be performed on all persons in custody upon entering the secure booking area of the facility. Members (Penal Code § 4030):

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- (a) Within sight of the visual display of a body scanner that is depicting the body during a scan shall be of the same sex as the person being scanned, except for physicians or licensed medical personnel.
- (b) Should ask persons in custody if they are pregnant prior to a body scan and should not knowingly use a body scanner on a pregnant person.

900.9 GENDER IDENTITY OR EXPRESSION CONSIDERATIONS

If an individual who is subject to a strip search or physical body cavity search has a gender identity or expression that differs from their sex assigned at birth, the search should be conducted by members of the same gender identity or expression as the individual, unless the individual requests otherwise.

900.10 JUVENILES

No juvenile should be subjected to a strip search or a physical body cavity search at the [Department/Office].

The Chief of Police or the authorized designee should establish procedures for the following:

- (a) Safely transporting a juvenile who is suspected of concealing a weapon or contraband, or who may be experiencing a medical issue related to such concealment, to a medical facility or juvenile detention facility as appropriate in the given circumstances.
 - 1. Procedures should include keeping a juvenile suspected of concealing a weapon under constant and direct supervision until custody is transferred to the receiving facility.
- (b) Providing officers with information identifying appropriate medical and juvenile detention facilities to which a juvenile should be transported for a strip or body cavity search.

Nothing in this section is intended to prevent an officer from rendering medical aid to a juvenile in emergency circumstances (see the Medical Aid and Response Policy for additional guidance).

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901.1 PURPOSE AND SCOPE

It is the policy of the Banning Police Department to comply with the U.S. Constitution, Federal, State and case law in regards to arrests and detentions of person by police officer personnel.

901.2 DEATH WHILE IN CUSTODY-BUREAU OF CRIMINAL STATISTICS NOTIFICATION.

The on-duty supervisor will be notified immediately. If there is no supervisor on duty, the officer shall notify the following:

- (a) On-call supervisor.
- (b) Division Lieutenant.
- (c) Chief of Police.

The Department investigator will be contacted to assist in the investigation. The Chief of Police will evaluate the circumstances and invoke the Investigative Protocol for Riverside County when necessary. A complete copy of the report shall be sent to the Bureau of Criminal Statistics, attention: Death in Custody Program, within ten days.

901.3 BAIL AND ARRESTEE RIGHTS

- (a) **MAGISTRATE**-Penal Code § 825 states that an arrestee shall be taken before a magistrate without unnecessary delay. Since the Department's holding facility is for temporary detention only, arrestees requiring or demanding immediate appearance before a magistrate shall be booked in the Riverside County Jail. It is the responsibility of the Riverside County Sheriffs Office to deliver the arrestee to a magistrate.
- (b) **BAIL FOR ARRESTEES**-The Department does not accept bail from or on behalf of arrestees. To post bail, citizens should be referred to the Riverside County Sheriff.
- (c) **ACCESS TO ATTORNEY**-In the event the attorney for an arrestee arrives at the Department prior to the arrestee being transferred to the Riverside County Jail or another facility, or prior to the arrestee being released, the arrestee and his attorney shall be afforded a place of privacy to confer. The on-duty supervisor/officer will note the conference between the arrestee and his attorney. The attorney and his/her personal effects will be subject to search and inspection prior to coming into contact with the arrestee.
- (d) **TELEPHONE CALLS**-Penal Code § 851.5 states than an arrestee has a right to make at least three completed telephone calls immediately upon being booked or no later than three hours after the arrest. It is the responsibility of the arresting officer to ensure that the arrestee is given the opportunity to make the telephone calls.

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901.3.1 POST ARREST AND BOOKING SUPERVISOR APPROVAL

Officers shall obtain approval from a Supervisor for all post-arrest decisions (i.e. the decision to book, cite release, etc.). After an arrest has been made and prior to the arrested subject's release, the arresting officer shall contact a Supervisor and inform the supervisor of the circumstance(s) of the arrest. After review of the circumstances of the arrest, the Supervisor will determine the release status of the arrestee. The notification to the supervisor may be made either in person, telephone, Nextel, etc.

In instances where Officers are only issuing a Notice to Appear for a violation (i.e. Vehicle Code § 12500) and the suspect was not physically taken into custody, the officer has no need to notify a supervisor prior to the release of the suspected offender.

Each Supervisor shall complete a Watch Commander's Report for his/her assigned shift. The completed Watch Commander's Report shall document all arrests made during the shift. Supervisors will be responsible for submitting the completed Watch Commander's Report to the Patrol Division Lieutenant on a daily basis. Supervisors are to ensure that the current version of the Watch Commanders Report is utilized.

901.3.2 CITE AND RELEASE POLICY

- (a) The purpose of the Cite and Release Policy is to allow officers the flexibility, whenever possible, to book arrestees "in house" and release them from the Department facility rather than book them at Riverside County Jail.
- (b) It shall be the Department policy to deal with persons coming into our custody in a humane and dignified manner and to interfere with their freedom of movement to the least possible extent under the law while conforming to sound practices conducive to the safety of all personnel. (Refer §§ 827.1 and 853.6 Penal Code.) § 853.6 of the Penal Code permits a subject arrested for a misdemeanor to be released on a notice to appear, at the officer's discretion. The following guidelines will be adhered to in reference to citation releases for misdemeanors (including numerous traffic offenses) and/or foreign warrants:
 - 1. An arrestee may be released on his/her promise to appear provided:
 - (a) The arrestee has not demanded to be immediately taken before a magistrate.

See attachment: [2016 Detention Certificate-849\(b\) Protocols.pdf](#)

901.3.3 PERSONS INELIGIBLE FOR RELEASE

- (a) Pursuant to Penal Code § 827. 1, persons who are stopped with a warrant for one of the following violations will not be considered for release under the above procedure:
 - 1. The misdemeanor cited in the violation involves violence.
 - 2. The misdemeanor cited in the violation involves a firearm.
 - 3. The misdemeanor cited in the violation involves resisting arrest.

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4. The misdemeanor cited in the violation involve giving false information to a Peace Officer.
 5. The warrant of arrest indicates that the person is not eligible to be released on a citation.
- (b) Pursuant to Penal Code § 853.6, a person arrested for an offense declared to be a misdemeanor, including a violation of any city or county ordinance, does not demand to be taken before a magistrate, that the person shall be released in accordance with this General Order.
- (c) Whenever any person is arrested by a Peace Officer for a misdemeanor, that person shall be released according to the procedures set forth by this chapter unless one of the following is a reason for non-release. In such a case, the officer must indicate, in a form provided by the Department, so indicate which of the following was a reason for non-release:
1. The person arrested is a danger to himself/herself due to intoxication or being under the influence of narcotics or drugs, to the extent that releasing him/her into the custody of another person may compromise someone's safety.
 2. The person requires medical care or is otherwise unable to care for themselves.
 3. The person has other ineligible charges pending against him/her. (An example of this would be a DUI that would qualify for a community cite and release but has a foreign warrant such as resisting arrest. The officer issues a citation to appear for the DUI, and transports the subject for the foreign warrant to Riverside County Jail.)
 4. There is a reasonable likelihood that the offense or offense would continue or resume, or that the safety of the persons or property would be immediately endangered by the release of the person.
 5. The person refuses to sign the citation.
 6. The person cannot or will not provide satisfactory, verifiable means of identification. (If the person can provide proper identification within a reasonable amount of time, the arrestee may then be released from the station after booking.)
 7. In the event of multiple warrants, if one of the warrants states no citation may be issued, then all warrants must be served and no citation may be issued for any of the warrants.

901.3.4 PROCEDURE FOR RELEASE FOR RECORDABLE OFFENSES

Most misdemeanors which we can and do cite and release in the field or at the Police facility need to have certain procedures followed in order to ensure the violation will be properly recorded

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into CII. The procedure shall only apply to individuals who are cited out at the Banning Police Department, not bookings at Riverside County Jail. These are individuals who are cooperative and do fall within the guidelines set forth in § 853.6 of the Penal Code. When an individual is booked at the jail, the custody deputies complete this process. A list of recordable violations is to be maintained in dispatch.

- (a) **FORMS**-Department of Justice Form JUS/8715 is to be completed and attached by the arresting officer at the time of processing on all specified offenses. The exceptions (which are not reportable) are listed below:
 - 1. 647(F) (alcohol)
 - 2. Minor in possession.
 - 3. City Ordinance violations.
 - 4. Possession of marijuana under an ounce.
 - 5. Trespassing with a motor vehicle.
 - 6. Misdemeanor DUI.
- (b) The routing of the completed JUS/8715 FORMS shall be the responsibility of the Records Bureau.

901.3.5 OFFICER RESPONSIBILITY

Arresting officers shall fingerprint all suspects who are arrested for recordable violations using the CAL ID Live Scan machine. Officers are responsible for ensuring fingerprints are properly downloaded into the CAL ID Live Scan system. Uncooperative and/or potentially violent suspects should be transported to a Riverside County Jail Facility for processing.

- (a) **ROUTING**-A member of the Records Bureau shall review the JUS/8715 forms to ensure the corresponding information is accurate and complete. When errors are found, it shall be brought to the attention of a supervisor.
- (b) The entire JUS/8715 along with each arrest report will be submitted to the District Attorneys office.
- (c) The same procedure applies regardless if the arrestee is a juvenile or an adult. Discretion is allowed and recommended for juveniles, especially juveniles under age 14.

901.4 PROCEDURE FOR RELEASE FOR FOREIGN WARRANTS

- (a) The officer requests dispatch to confirm the warrant. While doing so the dispatcher obtains the court name, jurisdiction, date and time of appearance, giving the same to the officer.
- (b) The officer uses the standard field citation filling in all the appropriate information.
- (c) The officer then obtains a case number and time from dispatch.

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- (d) The officer places the following information in the violation(s) section of the citation:
 - 1. "En route arrest" to: (Agency name that holds the warrant).
 - 2. Warrant number, date of warrant, and offense listed.
- (e) The officer shall ensure that information including the correct jurisdiction information, address, and date/time for appearance are placed on the citation or at the bottom of the violation section.
- (f) The officer will give the subject his copy of the completed and signed citation.
- (g) Once the citation has been issued, the dispatcher will locate the warrant in the computer.
- (h) The officer will fill out an arrest report and submit the same with the citation and the warrant confirmation teletype. The officer will also attach the JUS/8715 and submit it with the report. Once the report has been approved by a supervisor, the records section will mail the original citation along with a copy of the report and a copy of the abstract warrant to the appropriate jurisdiction. The entire JUS/8715 form will be forwarded to the agency responsible for the case.

901.5 BAIL - VEHICLE CODE SECTION 40304.5

Under this provision, detainees taken into custody for bail collection:

- (a) Who have two or fewer outstanding warrants, or
- (b) Who are arrested for failure to appear on a parking citation or traffic infraction, may not be booked, photographed, or fingerprinted for at least three (3) hours. During this three-hour period, the arrestee must be given an opportunity to immediately post cash bail or arrange a deposit of bail.

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902.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Banning 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.

Additional guidance for transferring persons in custody to another facility or court is provided in the Transporting Persons in Custody Policy.

902.1.1 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/Office].

Safety checks - Direct, visual observation by a member of this [department/office] performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of adults in temporary custody.

Temporary custody - The time period an adult is in custody at the Banning Police Department prior to being released or transported to a housing or other type of facility.

902.2 POLICY

The Banning 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/Office]. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

The Banning Police Station does not have locked holding cells or any locked enclosures used to hold arrestees in custody. Subsequently, the Banning Police Department is not subject to the rules and regulations specifically applicable to locked holding facilities under CCR Rules.

902.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than six hours.

902.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Banning Police Department, but should be transported to a jail facility, a medical facility, or another type of facility as appropriate. These include:

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- (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).
- (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/Office] unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

902.3.2 SUPERVISION IN TEMPORARY CUSTODY

An authorized [department/office] 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

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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/office] 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.

902.3.3 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.

902.3.4 ENTRY RESTRICTIONS

Entry into any location where a person is held in custody should be restricted to:

- (a) Authorized members entering for official business purposes.
- (b) Emergency medical personnel when necessary.
- (c) Any other person authorized by the Watch Commander.

When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

902.4 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 the individual 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

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may be suicidal, the individual 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.

902.4.1 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.
- (d) Ensure separation, as appropriate, based on other factors, such as age, criminal sophistication, assaultive/non-assaultive behavior, mental state, disabilities and sexual orientation.

902.4.2 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/office] members. There should also be a published list of foreign embassy and consulate telephone and fax numbers, as well as standardized notification forms that can be transmitted and then retained for

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documentation. Prominently displayed signs informing foreign nationals of their rights related to consular notification should also be posted in areas used for the temporary custody of adults.

[Department/Office] 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.

902.5 SAFETY, HEALTH AND OTHER PROVISIONS

902.5.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody at the Banning Police Department, the custody shall be promptly and properly documented in a custody log, including:

- (a) Identifying information about the individual, including the individual's name.
- (b) Date and time of arrival at the [Department/Office].
- (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.

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- (h) Date and time of release from the Banning 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.

902.5.2 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.

902.5.3 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to [department/office] 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, the person will be accompanied by an officer.

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Those who require medication while in temporary custody should not be at the Banning Police Department. They should be released or transferred to another facility as appropriate.

902.5.4 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 the individual's 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).

902.5.5 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/Office] 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.
 - 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).

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- (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).
- (d) Individuals who are known to have, or are perceived by others as having, hearing or speech impairments shall be provided access to a telecommunication device which will facilitate communication (15 CCR 1067).

902.5.6 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.

902.5.7 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.

902.5.8 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).

902.5.9 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.

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- (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).

902.5.10 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).

902.6 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 Banning Police Department unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

902.6.1 PREGNANT ADULTS

Adults who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

902.7 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/Office] shall maintain a copy of the property receipt.

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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.

902.8 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/office] members.
- (d) The individual's initial placement into and removal from a locked enclosure shall be logged.
- (e) Safety checks by [department/office] members shall occur no less than every 15 minutes (15 CCR 1027.5).
 - 1. Safety checks should be at varying times.
 - 2. All safety checks shall be logged.
 - 3. The safety check should involve questioning the individual as to 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.

902.8.1 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

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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.

902.9 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 Banning 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 InvestigationDivision 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 [Medical Examiner/JOP]
- (g) Evidence preservation
- (h) In-custody death review reports in compliance with 15 CCR 1046
 - 1. A copy of the initial review report of an in-custody death shall be provided to the BSCC within 60 days of the death.
- (i) Preparation of a written report to the Attorney General within 10 days of any death in custody including any reasonably known facts concerning the death (Government Code § 12525)
 - 1. A copy of the report submitted to the Attorney General shall also be submitted to the BSCC within 10 days of the death (15 CCR 1046).
 - 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.

902.9.1 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/office] website as prescribed and within the time frames provided in Penal Code § 10008.

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902.10 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 Banning Police Department unless escorted by a member of the [Department/Office].
- (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.

902.10.1 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/Office] shall display the required signage that complies with Penal Code § 851.91 advising an arrestee of the right to obtain the Judicial Council forms.

902.11 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

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- (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).

902.12 TRAINING

[Department/Office] members should be trained and familiar with this policy and any supplemental procedures.

[Department/Office] 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 Sergeant shall maintain records of all such training in the member's training file.

Transporting Persons in Custody

903.1 PURPOSE AND SCOPE

This policy provides guidelines for transporting persons who are in the custody of the Banning Police Department.

See the Handcuffing and Restraints Policy for additional guidance.

903.2 POLICY

It is the policy of the Banning Police Department to provide safe, secure, and humane transportation for all persons in custody.

903.3 PATROL DIVISION COMMANDER RESPONSIBILITIES

The Patrol Division Commander should establish related procedures for:

- Safely transporting persons who have their legs restrained.
- Seating placement of persons being transported in vehicles with and without safety barriers.

903.4 OFFICER RESPONSIBILITIES

Persons in custody should be transported in a vehicle properly equipped to transport passengers. They should be appropriately restrained and positioned during transport.

Officers transporting a person in custody should:

- (a) Search all areas of the vehicle accessible to a person in custody before and after each transport.
- (b) Immediately search persons in custody after arrest, when receiving the person from the custody of another officer, and before transferring the person. Refer to the Custodial Searches Policy before conducting any search other than a field search.
 1. Whenever practicable, a search should be conducted by an officer of the same gender as the person being searched. If an officer of the same gender is not reasonably available, a witnessing officer should be present during the search.
- (c) Provide Dispatch with any required notifications (e.g., start time, mileage, end time).
- (d) Properly secure all property.
- (e) Use audio/video equipment (when properly equipped) to observe and record any person in custody during transport (see the Mobile Audio/Video and Body-Worn Camera policies for additional guidance).
- (f) Make a reasonable effort to prevent inappropriate conversations between persons being transported (e.g., demeaning or insulting language) or conversations between a person being transported and someone outside the vehicle.
- (g) Plan travel times and routes to avoid situations that might impede transportation (e.g., heavy traffic, unfavorable road conditions, extreme weather) when reasonably practicable.

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- (h) Make a verbal welfare check with a person in custody at least every 10 minutes. Provide sufficient visual observation and audio communication during the transport of:
 - 1. Individuals in auxiliary restraints.
 - 2. Individuals in leg restraints.
 - 3. Individuals wearing a spit hood.
 - 4. Individuals who are a suspected suicide risk.
- (i) Verify that the vehicle's security devices (e.g., window and rear-door child-safety locks) are activated.
- (j) Assess uncooperative persons who cannot or will not sit upright for a medical condition (see the Medical Aid and Response Policy for additional guidance):
 - 1. If no medical condition exists, alternative transportation should be arranged (e.g., a special transport van).

903.5 TRANSPORT RESTRICTIONS

When transporting multiple persons, officers:

- (a) Should not transport persons in custody together. Persons in custody should be transported individually when practicable, or within their own compartment of a multiple-compartment vehicle, unless supervisor approval is received based on unusual circumstances.
 - 1. Juveniles and adults shall not be transported together.
 - 2. Persons with known hostilities toward each other, such as mutual combatants or rival gang members, shall not be transported together.
 - 3. Persons of different genders should not be transported together.
- (b) If segregating individuals is not possible, transporting officers should be alert to inappropriate physical or verbal contact and take appropriate action.

903.6 TRANSPORT VANS

An officer trained on the safety and restraint systems of a transport van should be present during the transport van's use for transporting a person in custody.

An officer should assist persons getting into and out of the transport van to avoid falls.

903.7 TRANSPORTING PERSONS IN CUSTODY WHO HAVE A DISABILITY

When transporting a person in custody who has a disability, a transporting officer should request assistance as necessary to transport the person in a reasonable and safe manner. The transporting officer should ensure that any special equipment (e.g., canes, wheelchairs, prosthetics) is transported to the person's destination in a way that does not threaten the safety or security of the person in custody or the officer.

Officers transporting a person who has a disability should consult with the person in custody and use good judgment in determining what, if any, restraining devices may be appropriate based on the person's disability to ensure the security, safety, and dignity of all persons.

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903.8 TRANSPORTING ILL OR INJURED PERSONS IN CUSTODY

Except in exceptional cases where alternatives are not reasonably available, officers should not transport persons in custody who are unconscious, have serious injuries, or who may be seriously ill. EMS personnel should be called to handle such transportation.

Officers shall notify a supervisor as soon as practicable when transporting a person in custody to a hospital.

An officer should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes, or when so directed by a Watch Commander.

Any person in custody suspected of having a communicable disease should be transported in compliance with the exposure control plan in the Communicable Diseases Policy.

See the Medical Aid and Response Policy for additional guidance on ill or injured persons in custody.

903.9 TRANSPORTING PREGNANT PERSONS IN CUSTODY

Persons in custody who are known to be pregnant should be restrained during transport 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 themselves or others, or damage property.

Absent exceptional circumstances, persons in labor or delivery should not be transported by officers. EMS personnel should be called to handle transportation.

903.10 MENTAL ILLNESS COMMITMENT TRANSPORTS

When transporting any individual for a mental illness commitment, the transporting officer should request that Dispatch notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual, and whether any special medical care is needed.

Should the person require transport in a medical transport vehicle, and the safety of any person, including the person in custody, requires the presence of an officer during the transport, Watch Commander approval is required before transport commences.

See the Mental Illness Commitments Policy for additional guidance.

903.11 INTERRUPTION OF TRANSPORT

Absent extraordinary circumstances, officers should not interrupt a transport to provide emergency assistance without supervisory approval. Officers encountering an emergency should notify Dispatch and request an appropriate response.

903.12 EXTENDED TRANSPORTS

During transports for extended durations, transporting officers may be required to make necessary stops. With supervisory approval and due consideration for security risks and the in-custody

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person's health and well-being, these stops should be limited to fuel, meals, bathroom breaks, and other purposes reasonably necessary for the continuation of the transport.

903.13 PROHIBITIONS

When transporting a person in custody, officers should not:

- (a) Use transport as a form of punishment or retaliation (e.g., intentionally rough rides, excessive heat or cold, obnoxiously loud music).
- (b) Handcuff a person to any part of a vehicle.
- (c) Leave the vehicle unattended with the person in custody in the vehicle.
- (d) Allow any person who is not in custody (e.g., friend, family member) to have contact with or be in close proximity to the person in custody.
- (e) Allow any food, drink, or other consumables to be given to the person in custody by anyone other than [department/office] personnel or receiving agency personnel.
- (f) Stop to conduct any personal activities.
- (g) Engage in a pursuit.

903.14 ESCAPES

In the event that a person in custody escapes while being transported, the transporting officer should immediately advise Dispatch and other units of the escape, provide a description of the escapee, notify the Watch Commander, and submit a written report as soon as practicable describing the circumstances of the escape and any recapture.

The Watch Commander should notify the Chief of Police or the authorized designee upon learning of an escape.

If the escape occurs outside the jurisdiction of the Banning Police Department, the Watch Commander should notify the appropriate agency or agencies within the jurisdiction where the escape occurred.

903.15 DOCUMENTATION

If a person is injured during transportation, officers should document the injury in the appropriate report. Documentation should include the condition of the person prior to transportation and the known or suspected causes of the injury during transportation (e.g., hitting head, struggling with restraints, fighting with other persons in custody). Any visible or reported injuries should be photographed and included with the report.

903.16 NOTIFICATIONS

Officers should notify a supervisor and any receiving facility of information regarding any circumstances the officer reasonably believes would be potential safety concerns or medical risks to the person (e.g., uncooperative or violent, prolonged struggle, extreme agitation, medical conditions) that may have occurred prior to, or during, transportation.

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903.17 TRAINING

The Training Sergeant should provide periodic training on this policy and procedures related to transporting persons in custody, restraint systems, and restraint devices.

Chapter 10 - Personnel

Recruitment and Selection

1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Banning Police Department and that are promulgated and maintained by the Department of Human Resources.

1000.2 POLICY

In accordance with applicable federal, state, and local law, the Banning 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/Office] does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The [Department/Office] will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

1000.3 RECRUITMENT

The Administration Division Commander shall employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy shall include:

- (a) Establishment of a written recruitment plan.
 - 1. The plan shall include an outline of steps for recruiting candidates who are representative of the community. This should include candidates who live in or are from the community, if appropriate and consistent with applicable laws and memorandums of understanding or collective bargaining agreements.
- (b) Identification of racially and culturally diverse target markets.
- (c) Use of marketing strategies to target diverse applicant pools.
- (d) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive [department/office] website and the use of [department/office]-managed social networking sites, if resources permit.
- (e) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities, and the military.
- (f) Employee referral and recruitment incentive programs.
- (g) Consideration of shared or collaborative regional testing processes.

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Recruitment and Selection

The Administration Division Commander shall avoid advertising, recruiting, and screening practices that tend to stereotype, focus on homogeneous applicant pools, or screen applicants in a discriminatory manner.

The [Department/Office] should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of their status in the recruiting process.

1000.4 SELECTION PROCESS

The [Department/Office] shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the [Department/Office] shall employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
 - 1. The personnel records of any applicant with prior peace officer experience in this state shall be requested from the appropriate law enforcement agency and reviewed prior to extending an offer of employment (Penal Code § 832.12).
 - 2. This includes review of prior law enforcement employment information maintained by POST (Penal Code § 13510.9).
- (b) Driving record
- (c) Personal and professional reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
 - 1. This review should include the identification of any activity that promotes or supports unlawful violence or unlawful bias against persons based on protected characteristics (e.g., race, ethnicity, national origin, religion, gender, gender identity, sexual orientation, disability).
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state, and federal criminal history record checks (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)

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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

1000.4.1 VETERAN'S PREFERENCE

Qualifying veterans of the United States Armed Forces who receive a passing score on an entrance examination shall be ranked in the top rank of any resulting eligibility list. The veteran's preference shall also apply to a widow or widower of a veteran or a spouse of a 100 percent disabled veteran (Government Code § 18973.1).

1000.5 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Banning Police Department (11 CCR 1953).

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

1000.5.1 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

1000.5.2 STATE NOTICES

If information disclosed in a candidate's criminal offender record information (CORI) is the basis for an adverse employment decision, a copy of the CORI shall be provided to the applicant (Penal Code § 11105).

1000.5.3 REVIEW OF SOCIAL MEDIA SITES

All peace officer candidates shall be subject to a social media search for statements, postings, and/or endorsements made by the candidate that are relevant to suitability for peace officer employment, including bias-relevant information consistent with the requirements of 11 CCR 1955(d)(3) and any public expression of hate made in an online forum, as defined in Penal Code § 13680(g) (11 CCR 1953(e)(12)).

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Due to the potential for accessing unsubstantiated, private, or protected information, the Administration Division Commander should not require candidates to provide passwords, account information, or access to password-protected social media accounts.

The Administration 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/Office] fully complies with applicable privacy protections and local, state, and federal law.

Regardless of whether a third party is used, the Administration Division Commander should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

1000.5.4 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall include sections that summarize relevant Background Investigation Dimensions and include any findings of behaviors, traits, and/or attributes relevant to bias per the Bias Assessment Framework as described in the POST Background Investigation Manual. The report shall identify the data sources reviewed for the findings, regardless of weight given. The report shall include narrative information in the format described in 11 CCR 1953(g)(1). The report shall also include whether the candidate has engaged or is engaging in membership in a hate group, participation in hate group activity, or advocacy or public expressions of hate, pursuant to Penal Code § 13680 et seq. (11 CCR 1953).

The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation including relevant documentation of bias-related findings and documentation obtained through the social media search shall be included in the candidate's background investigation file (11 CCR 1953).

The background investigator shall document proof of verification of qualification for peace officer appointment on the Verification of Qualification for Peace Officer Appointment form and forward to the Administration 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).

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1000.5.5 RECORDS RETENTION

The background report and all supporting documentation shall be maintained according to the established records retention schedule and at a minimum as follows (Government Code § 12946; 11 CCR 1953):

- (a) Reports and documentation for candidates hired by the [Department/Office] shall be retained for the entire term of employment and a for a minimum of four years after separation from the [Department/Office].
- (b) Reports and documentation for candidates not hired by the [Department/Office] for a minimum of four years.

1000.5.6 BACKGROUND INVESTIGATION UPDATE

A background investigation update may, at the discretion of the Chief of Police, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the Banning Police Department, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

1000.5.7 INVESTIGATOR TRAINING

Background investigators shall complete POST-certified background investigation training prior to conducting investigations (11 CCR 1953; 11 CCR 1959).

1000.5.8 CONFIDENTIAL POST RECORDS

Records released to the [Department/Office] from POST that were previously withheld from the candidate by POST shall be kept confidential as provided in Penal Code § 13510.9.

1000.6 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

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1000.7 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; Penal Code § 13510.1; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the [Department/Office] and the community. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Department of Human Resources should maintain validated standards for all positions.

1000.7.1 STANDARDS FOR OFFICERS

Candidates shall meet the minimum standards established by POST or required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

- (a) Free of any felony convictions
- (b) Be legally authorized to work in the United States under federal law
- (c) At least 21 years of age except as provided by Government Code § 1031.4
- (d) Fingerprinted for local, state, and national fingerprint check (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)
- (j) POST certification that has not been revoked, denied, or voluntarily surrendered pursuant to Penal Code § 13510.8(f)

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- (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/Office] (Penal Code § 13510(d)).

1000.7.2 STANDARDS FOR [DISPATCHER]

Candidates shall satisfy the POST selection requirements, including (11 CCR 1956):

- (a) A verbal, reasoning, memory, and perceptual abilities assessment (11 CCR 1957)
- (b) An oral communication assessment (11 CCR 1958)
- (c) A medical evaluation (11 CCR 1960)

1000.8 PROBATIONARY PERIODS

The Administration Division Commander should coordinate with the Banning Department of Human Resources 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.

Evaluation of Employees

1001.1 PURPOSE AND SCOPE

The [Department/Office]'s employee performance evaluation system is designed to record work performance for both the [Department/Office] and the employee, providing recognition for good work and developing a guide for improvement.

1001.2 POLICY

The Banning 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/Office] 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.

1001.3 EVALUATION PROCESS

Evaluation reports will cover a specific period of time and should be based on documented performance during that period. Evaluation reports will be completed by each employee's immediate supervisor. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the immediate supervisor for their input.

All sworn and non-sworn supervisory personnel shall attend an approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment.

Each supervisor should discuss the tasks of the position, standards of performance expected and the evaluation criteria with each employee at the beginning of the rating period. Supervisors should document this discussion in the prescribed manner.

Assessment of an employee's job performance is an ongoing process. Continued coaching and feedback provides supervisors and employees with opportunities to correct performance issues as they arise.

Non-probationary employees demonstrating substandard performance shall be notified in writing of such performance as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity, with the goal being a minimum of 90 days written notice prior to the end of the evaluation period.

Employees who disagree with their evaluation and who desire to provide a formal response or a rebuttal may do so in writing in the prescribed format and time period.

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Evaluation of Employees

1001.3.1 RESERVE OFFICER EVALUATIONS

Reserve officer evaluations are covered under the Reserve Officers Policy.

1001.4 FULL TIME PROBATIONARY PERSONNEL

Non-sworn personnel are on probation for twelve (12) months before being eligible for certification as permanent employees. An evaluation is completed monthly for all full-time non-sworn personnel during the probationary period.

Sworn personnel are broken into two sections (lateral and entry-level). Lateral hire sworn personnel are on probation for twelve (12) months before being eligible for certification as permanent employees. Entry-level sworn personnel are on probation for eighteen (18) months before being eligible for certification as permanent employees. Probationary officers are evaluated daily, weekly and monthly during the probationary period.

1001.5 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.

1001.5.1 RATINGS

When completing the Performance Evaluation, the rater will place a check mark in the box that best describes the employee's performance in each of the categories. The definition of the rating category is as follows:

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.

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

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for improvement. Any rating under any job dimension marked as needs improvement shall be substantiated with supporting documentation.

1001.6 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.

1001.6.1 DISCRIMINATORY HARASSMENT FORM

At the time of each employee's annual evaluation, the reviewing supervisor shall require the employee to read the City and [Department/Office] harassment and discrimination policies. Following such policy review, the supervisor shall provide the employee a form to be completed and returned by the employee certifying the following:

- (a) That the employee understands the harassment and discrimination policies.
- (b) Whether any questions the employee has have been sufficiently addressed.
- (c) That the employee knows how and where to report harassment policy violations.
- (d) Whether the employee has been the subject of, or witness to, any conduct that violates the discrimination or harassment policy which has not been previously reported.

The completed form should be returned to the supervisor (or other authorized individual if the employee is uncomfortable returning the form to the presenting supervisor) within one week.

The employee's completed answers shall be attached to the evaluation. If the employee has expressed any questions or concerns, the receiving supervisor or other authorized individual shall insure that appropriate follow up action is taken.

1001.6.2 DIVISIONAL FILE UPDATE

Supervisors are responsible for updating employee information in divisional files during the evaluation process. This includes purging documents that were used in documenting an employee's evaluation.

1001.7 EVALUATION REVIEW

After the supervisor completes the first draft of the evaluation, he/she will forward the evaluation to the rater's supervisor (Division Lieutenant). The Division Lieutenant shall review the evaluation for fairness, impartiality, uniformity, and consistency. The Division Lieutenant shall evaluate the supervisor on the quality of ratings given.

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1001.8 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 Department of Human Resources.

Special Assignments and Promotions

1002.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making special assignments within the Banning Police Department.

1002.1.1 AUTHORITY FOR PROMOTIONS

The Chief of Police has the sole authority to promote personnel within the Department.

1002.1.2 REQUIREMENTS FOR PROMOTION

A Department member shall meet the requirements for the position prior to the final filing date for the position.

1002.1.3 PROMOTIONAL TESTING

Only qualified members will be allowed to take a promotional examination.

Once Department testing begins and through its conclusion, Department members shall not share, distribute, or discuss any information pertaining to written and oral examinations that would give another testing candidate an unfair advantage.

1002.1.4 PROMOTIONAL DISQUALIFICATIONS

Any member of the Department with a current less than competent evaluation may not apply for nor be granted a promotion.

1002.1.5 PROMOTIONAL SPECIFICATIONS

Specifications for promotional opportunities are on file with the City of Banning Personnel Office.

1002.2 POLICY

The Banning 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.

1002.3 SPECIAL ASSIGNMENT POSITIONS

The following positions are considered special assignments and not promotions:

- (a) [Crisis Response Unit] member
- (b) Investigator
- (c) Motorcycle officer
- (d) Bicycle Patrol officer
- (e) Canine handler
- (f) Collision investigator
- (g) Field Training Officer
- (h) Community Relations/Training Officer

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- (i) School Resource and/or Drug Abuse Resistance Education (D.A.R.E.) officer
- (j) Court Officer
- (k) Drug Recognition Expert (DRE)

1002.3.1 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

1002.3.2 EVALUATION CRITERIA

The following criteria will be used in evaluating candidates for a special assignment:

- (a) Presents a professional, neat appearance.
- (b) Maintains a physical condition that aids in his/her performance.
- (c) Expressed an interest in the assignment.
- (d) Demonstrates the following traits:
 - 1. Emotional stability and maturity
 - 2. Stress tolerance
 - 3. Sound judgment and decision-making
 - 4. Personal integrity and ethical conduct
 - 5. Leadership skills
 - 6. Initiative
 - 7. Adaptability and flexibility
 - 8. Ability to conform to [department/office] goals and objectives in a positive manner

1002.3.3 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.

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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.

Grievance Procedure

1003.1 PURPOSE AND SCOPE

It is the policy of this [department/office] that all grievances be handled quickly and fairly without discrimination against employees who file a grievance whether or not there is a basis for the grievance. Our [Department/Office]'s philosophy is to promote a free verbal communication between employees and supervisors.

1003.1.1 GRIEVANCE DEFINED

A grievance is any difference of opinion concerning terms or conditions of employment or the dispute involving the interpretation or application of any of the following documents by the person(s) affected:

- The employee bargaining agreement (Memorandum of Understanding)
- This Policy Manual
- City rules and regulations covering personnel practices or working conditions

Grievances may be brought by an individual affected employee or by a group representative.

Specifically outside the category of grievance are complaints related to allegations of discrimination or harassment subject to the Discriminatory Harassment Policy. Also outside the category of grievances are personnel complaints regarding any allegation of misconduct or improper job performance against any [department/office] employee that, if true, would constitute a violation of [department/office] policy, federal, state, or local law as set forth in the Personnel Complaint Policy.

1003.2 PROCEDURE

Except as otherwise required under a collective bargaining agreement, if an employee believes that he or she has a grievance as defined above, then that employee shall observe the following procedure:

- (a) Attempt to resolve the issue through informal discussion with immediate supervisor.
- (b) If after a reasonable amount of time, generally seven days, the grievance cannot be settled by the immediate supervisor, the employee may request an interview with the Division Commander of the affected division or bureau.
- (c) If a successful resolution is not found with the Division Commander, the employee may request a meeting with the Chief of Police.
- (d) If the employee and the Chief of Police are unable to arrive at a mutual solution, then the employee shall proceed as follows:
 1. Submit in writing a written statement of the grievance and deliver one copy to the Chief of Police and another copy to the immediate supervisor and include the following information:

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- (a) The basis for the grievance (i.e., what are the facts of the case?).
- (b) Allegation of the specific wrongful act and the harm done.
- (c) The specific policies, rules or regulations that were violated.
- (d) What remedy or goal is being sought by this grievance.
- (e) The employee shall receive a copy of the acknowledgment signed by the supervisor including the date and time of receipt.
- (f) The Chief of Police will receive the grievance in writing. The Chief of Police and the City Manager will review and analyze the facts or allegations and respond to the employee within 14 calendar days. The response will be in writing, and will affirm or deny the allegations. The response shall include any remedies if appropriate. The decision of the City Manager is considered final.

1003.3 EMPLOYEE REPRESENTATION

Employees are entitled to have representation during the grievance process. The representative may be selected by the employee from the appropriate employee bargaining group.

1003.4 GRIEVANCE RECORDS

At the conclusion of the grievance process, all documents pertaining to the process shall be forwarded to Administration for inclusion into a secure file for all written grievances. A second copy of the written grievance will be maintained by the City Manager's office to monitor the grievance process.

1003.5 GRIEVANCE AUDITS

The Chief of Police or his/her designee shall perform an annual audit of all grievances filed the previous calendar year to evaluate whether or not any policy/procedure changes or training may be appropriate to avoid future filings of grievances. The findings shall be documented in a confidential and generic memorandum without including any identifying information from any individual grievance. If the audit identifies any recommended changes or content that may warrant a critical revision to this policy manual, the designee should promptly notify the Chief of Police.

Anti-Retaliation

1004.1 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.

1004.2 POLICY

The Banning 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.

1004.3 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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1004.3.1 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/Office] who has the authority to investigate the violation (Government Code § 7286(b)).

1004.4 COMPLAINTS OF RETALIATION

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief of Police or the City Administrative Services Director.

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.

1004.5 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.

1004.6 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.

1004.7 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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1004.7.1 DISPLAY OF WHISTLE-BLOWER LAWS

The [Department/Office] 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).

1004.8 RECORDS RETENTION AND RELEASE

The Records Supervisor shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

1004.9 TRAINING

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

Reporting of Arrests, Convictions, and Court Orders

1005.1 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 Banning 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.

1005.2 POLICY

The Banning 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/Office].

1005.3 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/Office] 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.

1005.4 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.

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/office] may be inherently in conflict with law enforcement duties and the public trust, and shall be reported as provided in this policy.

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Reporting of Arrests, Convictions, and Court Orders

1005.5 REPORTING

All members and all retired officers with an identification card issued by the [Department/Office] shall immediately notify their supervisors (retired officers should immediately notify the Watch Commander or the Chief of Police) in writing of any past or current criminal detention, arrest, charge, or conviction in any state or foreign country, regardless of whether or not the matter was dropped or rejected, is currently pending or is on appeal, and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the [Department/Office] shall further promptly notify their supervisors (retired officers should immediately notify the Watch Commander or the Chief of Police) in writing if they become the subject of a domestic violence-related order or any court order that prevents the member or retired officer from possessing a firearm or requires suspension or revocation of applicable POST certification.

Any member whose criminal arrest, conviction, or court order restricts or prohibits that member from fully and properly performing their duties, including carrying a firearm, may be disciplined. This includes but is not limited to being placed on administrative leave, reassignment, and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member, on the member's own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline, up to and including termination.

Retired officers may have their identification cards rescinded or modified, as may be appropriate (see the Retiree Concealed Firearms Policy).

1005.5.1 NOTIFICATION REQUIREMENTS

The Administration Division Commander 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/office] or any former peace officer if this [department/office] was responsible for the investigation (11 CCR 1003).

Drug- and Alcohol-Free Workplace

1006.1 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).

1006.2 POLICY

It is the policy of this [department/office] to provide a drug- and alcohol-free workplace for all members.

1006.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on [department/office] time can endanger the health and safety of [department/office] 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).

1006.3.1 USE OF MEDICATIONS

Members should not use any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to the member's immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the [Department/Office] while taking any medication that has the potential to impair the member's abilities, without a written release from the member's physician.

1006.3.2 USE OF MARIJUANA

Possession of marijuana, including medical marijuana, or being under the influence of marijuana on-duty is prohibited and may lead to disciplinary action.

1006.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on [department/office] premises or on [department/office] time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

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Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

1006.5 EMPLOYEE ASSISTANCE PROGRAM

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Department of Human Resources, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

1006.6 WORK RESTRICTIONS

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the [Department/Office].

1006.7 SCREENING TESTS

A supervisor may require an employee to submit to a screening under any of the following circumstances:

- (a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing the employee's ability to perform duties safely and efficiently.
- (b) The employee drives a motor vehicle in the performance of the employee's duties and becomes involved in an incident that results in bodily injury, death, or substantial damage to property.

1006.7.1 SUPERVISOR RESPONSIBILITIES

The supervisor shall prepare a written record documenting the specific facts that led to the decision to require the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or drugs, or both.
- (b) The result of the test is not admissible in any criminal proceeding against the employee.
- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

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1006.7.2 DISCIPLINE

An employee may be subject to disciplinary action if the employee:

- (a) Fails or refuses to submit to a screening test as requested.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that the employee took the controlled substance as directed, pursuant to a current and lawful prescription issued in the employee's name.

1006.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the [Department/Office] will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

1006.9 CONFIDENTIALITY

The [Department/Office] recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained in the member's confidential medical file in accordance with the Personnel Records Policy.

Sick Leave

1007.1 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).

1007.2 POLICY

It is the policy of the Banning Police Department to provide eligible employees with a sick leave benefit.

1007.3 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.

1007.3.1 NOTIFICATION

All members should personally notify their immediate 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 the immediate supervisor is not available (Off-work or unreachable at work), members should verbally (No messages or texts) contact the On-Duty Public Safety Dispatcher to make the notification. The Dispatcher will then notify the On-Duty Watch Commander of the call-off, so he/she can address personnel shortages if needed. If due to an emergency, a member is unable to make contact with a supervisor or the On-Duty Dispatcher, every effort should be made to have a representative for the member contact the supervisor or the On-Duty Dispatcher (Labor Code § 246).

Whoever receives a member's notification of not being able to report for work shall complete the appropriate off work notification form, with all the required information, and submit it to administration. The completed form will then be attached to the member's time card when submitted to the City's finance department for payroll purposes.

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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/ Office] 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.

1007.4 EXTENDED ABSENCE

Members absent from duty for more than three consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence of three or fewer days after the first three days of paid sick leave are used in a 12-month period.

1007.4.1 ACCESS TO DEPARTMENT FACILITIES, PROPERTY, AND EQUIPMENT WHILE ON MEDICAL LEAVE OR EXTENDED TIME OFF

Employees out on Medical Leave or Extended time off, will have their access to the police station, police department property, and department vehicles temporarily suspended until their status is reinstated to return to work and has been approved by the Chief of Police. It is mandatory that employees out on leave contact the Executive Assistant or Banning Police Administration, who may direct the On Duty Watch Commander to make arrangements to access Banning Police Department facilities, property and / or equipment, to include accessing personally owned property that may be stored on Banning Police Department grounds, property or vehicles. If approved the employee will be accompanied by an Administrator or the On Duty Watch Commander while on Banning Police Department property. At the conclusion of the employee accessing the Banning Police Department property, an email will be sent by the administrator or On Duty Watch Commander documenting the event.

There shall be no third-party access to the Banning Police Department facilities, property and / or equipment, to include accessing personally owned property that may be stored on Banning Police Department grounds, property, or vehicles with the rare exception the employee is to become incapacitated and with the approval of the Chief of Police, Then an appointment will be made with the Executive Assistant or Banning Police Administration, who may direct the On Duty Watch Commander to retrieve an employee's personal belongings.

1007.5 REQUIRED NOTICES

The Administrative Services Director shall ensure:

- (a) Written notice of the amount of paid sick leave available is provided to employees as provided in Labor Code § 246.

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- (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.

1007.6 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
- (b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the Department of Human Resources as appropriate.
- (c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
 - 1. Negatively affected the member's performance or ability to complete assigned duties.
 - 2. Negatively affected [department/office] operations.
- (d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (e) Referring eligible members to an available employee assistance program when appropriate.

Communicable Diseases

1008.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of [department/office] members contracting and/or spreading communicable diseases.

1008.1.1 DEFINITIONS

Definitions related to this policy include:

Communicable disease - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

Exposure - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the Banning Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

1008.2 TRAINING

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (8 CCR 5193):

- (a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.
- (b) Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.
- (c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

1008.3 POLICY

The Banning Police Department is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

1008.4 EXPOSURE CONTROL OFFICER

The Chief of Police will assign a person as the Exposure Control Officer (ECO). The ECO shall develop an exposure control plan that includes:

- (a) Exposure-prevention and decontamination procedures.
- (b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.

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- (c) The provision that [department/office] members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.
- (d) Evaluation of persons in custody for any exposure risk and measures to separate them (15 CCR 1051; 15 CCR 1207).
- (e) Compliance with all relevant laws or regulations related to communicable diseases, including:
 - 1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).
 - 2. Bloodborne pathogen mandates including (8 CCR 5193):
 - (a) Sharps injury log.
 - (b) Needleless systems and sharps injury protection.
 - 3. Airborne transmissible disease mandates including (8 CCR 5199):
 - (a) Engineering and work practice controls related to airborne transmissible diseases.
 - (b) Distribution of appropriate personal protective equipment to minimize exposure to airborne disease.
 - 4. Promptly notifying the county health officer regarding member exposures (Penal Code § 7510).
 - 5. Establishing procedures to ensure that members request exposure notification from health facilities when transporting a person that may have a communicable disease and that the member is notified of any exposure as required by Health and Safety Code § 1797.188.
 - 6. Informing members of the provisions of Health and Safety Code § 1797.188 (exposure to communicable diseases and notification).
- (f) Provisions for acting as the designated officer liaison with health care facilities regarding communicable disease or condition exposure notification. The designated officer should coordinate with other [department/office] 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/Office] 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).

1008.5 EXPOSURE PREVENTION AND MITIGATION

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1008.5.1 GENERAL PRECAUTIONS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes, but is not limited to (8 CCR 5193):

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or [department/office] vehicles, as applicable.
- (b) Wearing [department/office]-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 biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

1008.5.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (8 CCR 5193).

1008.6 POST EXPOSURE

1008.6.1 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.

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- (c) Notify a supervisor as soon as practicable.

1008.6.2 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (8 CCR 5193):

- (a) Name and Social Security number of the member exposed
- (b) Date and time of the incident
- (c) Location of the incident
- (d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
- (e) Work being done during exposure
- (f) How the incident occurred or was caused
- (g) PPE in use at the time of the incident
- (h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease and Work-Related Injury Reporting Policy).

1008.6.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

[Department/Office] members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary (8 CCR 5193).

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information:

- (a) Whether the member has been informed of the results of the evaluation.
- (b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

1008.6.4 COUNSELING

The [Department/Office] shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (8 CCR 5193).

1008.6.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate

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(8 CCR 5193). Source testing is the responsibility of the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

- (a) Obtaining consent from the individual.
- (b) Complying with the statutory scheme of Health and Safety Code § 121060. This includes seeking consent from the person who was the source of the exposure and seeking a court order if consent is not given.
- (c) Testing the exposed member for evidence of a communicable disease and seeking consent from the source individual to either access existing blood samples for testing or for the source to submit to testing (Health and Safety Code § 120262).
- (d) Taking reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status of the involved individuals to determine whether the County Health Officer will order testing (Penal Code § 7510).
- (e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing a person when the exposed member qualifies as a crime victim (Penal Code § 1524.1).

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the City Attorney to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

1008.7 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.

Smoking and Tobacco Use

1009.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Banning Police Department facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

1009.2 POLICY

The Banning Police Department recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the [Department/Office] and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all [department/office] facilities, buildings and vehicles, and as is further outlined in this policy (Government Code § 7597; Labor Code § 6404.5).

1009.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Banning Police Department.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles.

1009.4 ADDITIONAL PROHIBITIONS

No person shall use tobacco products within 20 feet of a main entrance, exit or operable window of any public building (including any [department/office] 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.).

1009.4.1 NOTICE

The Chief of Police or the authorized designee should ensure that proper signage is posted at each entrance to the [Department/Office] facility (Labor Code § 6404.5).

Personnel Complaints

1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Banning 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.

1010.2 POLICY

The Banning Police Department takes seriously all complaints regarding the service provided by the [Department/Office] and the conduct of its members.

The [Department/Office] 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/office] to ensure that the community can report misconduct without concern for reprisal or retaliation.

1010.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of [department/office] policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate [department/office] 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/Office].

1010.3.1 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.

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1010.3.2 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/office] 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.

1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1010.4.1 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/office] 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.

1010.4.2 ACCEPTANCE

All complaints will be courteously accepted by any [department/office] 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/Office] (Penal Code § 832.7).

1010.4.3 AVAILABILITY OF WRITTEN PROCEDURES

The [Department/Office] shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

1010.4.4 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

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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).

1010.5 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. On an annual basis, the [Department/Office] should audit the log and send an audit report to the Chief of Police or the authorized designee.

1010.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1010.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 - 1. The original complaint form will be directed to the Watch Commander 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/Office] receiving the complaint.
 - 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 Watch Commander.

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- (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 the Department of Human Resources and the Watch Commander for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Watch Commander, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1010.6.2 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 Banning 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).

1010.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

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Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

1010.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve [department/office] 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/office] 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.

1010.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1.

1010.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

1010.6.7 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).

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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).

1010.7 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).

1010.7.1 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

1010.8 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/Office], 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/office] badge, identification, assigned weapons and any other [department/office] equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

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1010.8.1 ACCESS TO DEPARTMENT FACILITIES, PROPERTY, AND EQUIPMENT WHILE ON MEDICAL LEAVE, ADMINISTRATIVE LEAVE OR EXTENDED TIME OFF

Employees out on Medical Leave, Administrative Leave or Extended time off, will have their access to the police station, police department property, and department vehicles temporarily suspended until their status is reinstated to return to work and has been approved by the Chief of Police. It is mandatory that employees out on leave contact the Executive Assistant or Banning Police Administration, who may direct the On Duty Watch Commander to make arrangements to access Banning Police Department facilities, property and / or equipment, to include accessing personally owned property that may be stored on Banning Police Department grounds, property or vehicles. If approved the employee will be accompanied by an Administrator or the On Duty Watch Commander while on Banning Police Department property. At the conclusion of the employee accessing the Banning Police Department property, an email will be sent by the administrator or On Duty Watch Commander documenting the event.

There shall be no third-party access to the Banning Police Department facilities, property and / or equipment, to include accessing personally owned property that may be stored on Banning Police Department grounds, property, or vehicles with the rare exception the employee is to become incapacitated and with the approval of the Chief of Police, Then an appointment will be made with the Executive Assistant or Banning Police Administration, who may direct the On Duty Watch Commander to retrieve an employee's personal belongings.

1010.9 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 Banning 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.

1010.10 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.

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1010.10.1 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.

1010.10.2 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.

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/Office]. 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.

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1010.10.3 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)).

1010.10.4 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)).

1010.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

1010.12 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).

1010.13 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.

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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).

1010.13.1 WRITTEN REPRIMAND APPEAL PROCESS

In the absence of an appeal process for written reprimands in a bargaining groups current MOU, the following process will apply:

Any employee wishing to formally appeal a written reprimand must submit a written request to his/her Lieutenant within ten days of being served with the written reprimand. The Lieutenant will then assign the appeal to an uninvolved supervisor of at least one rank above the rank of the supervisor issuing the original written reprimand.

Absent a written stipulation to the contrary, the employee will be provided with an evidentiary hearing before the assigned uninvolved supervisor within 30 days. The decision of the assigned uninvolved supervisor to sustain, modify, or dismiss the written reprimand shall be considered final.

1010.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and those members other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary officer subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304).

At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the Chief of Police or authorized designee for a non-evidentiary hearing for the sole purpose of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Chief of Police shall be final.

1010.15 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.

Seat Belts

1011.1 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/office] 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.

1011.1.1 DEFINITIONS

Definitions related to this policy include:

Child restraint system - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

1011.2 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/office] 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.

1011.3 INOPERABLE SEAT BELTS

[Department/Office] 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/Office] 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.

1011.4 POLICY

It is the policy of the Banning Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

1011.5 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

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law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363).

1011.6 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.

1011.7 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.

Body Armor

1012.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

1012.2 POLICY

It is the policy of the Banning 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.

1012.3 ISSUANCE OF BODY ARMOR

The Administration supervisor shall ensure that body armor is issued to all officers when the officer begins service at the Banning Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Administration supervisor shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

1012.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

- (a) Officers shall only wear agency-approved body armor.
- (b) Officers shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.
- (c) Officers may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.
- (d) Body armor shall be worn when an officer is working in uniform or taking part in Department range training.
- (e) An officer may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

1012.3.2 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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1012.3.3 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.

1012.4 RANGEMASTER RESPONSIBILITIES

The Rangemaster should:

- (a) Monitor technological advances in the body armor industry for any appropriate changes to Department approved body armor.
- (b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.
- (c) Provide training that educates officers about the safety benefits of wearing body armor.

Personnel Records

1013.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

1013.2 POLICY

It is the policy of this [department/office] to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of California (Penal Code § 832.7).

1013.3 [DEPARTMENT/OFFICE] FILE

The [department/office] file shall be maintained as a record of a person's employment/appointment with this [department/office]. The [department/office] 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/office] 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.

1013.4 DIVISION FILE

Division files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Division file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

All materials intended for this interim file shall be provided to the employee prior to being placed in the file in accordance with Government Code § 3305 and Government Code § 3306.

1013.5 TRAINING FILE

An individual training file shall be maintained by the Training Sergeant 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 Sergeant or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Training Sergeant or supervisor shall ensure that copies of such training records are placed in the member's training file.

1013.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Professional Standards Unit in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Professional Standards Unit supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member's file but will be maintained in the internal affairs file:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

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Investigation files arising out of sustained civilian's complaints involving misconduct shall be maintained pursuant to the established records retention schedule and for a period of at least 15 years. Investigations that resulted in other than a sustained finding may not be used by the [Department/Office] to adversely affect an employee's career (Penal Code § 832.5).

Investigation files arising out of internally generated complaints shall be maintained pursuant to the established records retention schedule and for at least four years (Government Code § 12946).

Investigation files arising out of a civilian complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and for at least five years (Penal Code § 832.5).

1013.7 MEDICAL FILE

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the member's medical condition and history, including but not limited to:

- (a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).
- (b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.
- (c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.
- (e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

1013.8 SECURITY

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the City Manager, City Attorney or other attorneys or representatives of the City in connection with official business.

1013.8.1 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

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).

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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.

1013.8.2 RELEASE OF PERSONNEL INFORMATION

Personnel records shall not be disclosed except as allowed by law (Penal Code § 832.7; Evidence Code § 1043) (see also Records Maintenance and Release Policy).

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this [department/office] may be guilty of a misdemeanor (Penal Code § 146e).

The [Department/Office] 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/Office] 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)).

1013.8.3 RELEASE OF LAW ENFORCEMENT GANG INFORMATION

Information relating to the termination of an officer from this [department/office] 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).

1013.8.4 RELEASE OF PEACE OFFICER RECORDS RELATING TO HATE COMPLAINTS

Records relating to an officer for an investigation of a hate complaint described in Penal Code § 13682 with a sustained finding that the officer engaged in membership in a hate group, participated in a hate group activity, or advocacy of public expressions of hate are not confidential and shall be made available for public inspection through a public records request (Penal Code § 13683).

Records disclosed may be redacted as provided in Penal Code § 13683.

1013.9 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/Office] 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

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the written response from the [Department/Office] 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/Office] for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments, or other comments or ratings used for department planning purposes.
- (g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (h) Records relevant to any other pending claim between the [Department/Office] and the member that may be discovered in a judicial proceeding.

1013.10 RETENTION AND PURGING

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

- (a) During the preparation of each member's performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.
- (b) If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Chief of Police.
- (c) If, in the opinion of the Chief of Police, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

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1013.11 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF OFFICERS

Personnel records and records related to certain incidents, complaints, and investigations of officers shall be released pursuant to a proper request under the Public Records Act and subject to redaction and delayed release as provided by law.

The Custodian of Records should work as appropriate with the Chief of Police or the Professional Standards Unit supervisor in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(3):

- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.
- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, whether the officer's action was consistent with law and [department/office] 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/Office] 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/Office] 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/Office] 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)).

1013.11.1 REDACTION

The Custodian of Records, in consultation with the Chief of Police or authorized designee, shall redact the following portions of qualifying records made available for release (Penal Code § 832.7(b)(6)):

- (a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of officers
- (b) Information that would compromise the anonymity of whistleblowers, complainants, victims, and witnesses
- (c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force
- (d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the officer or another person

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Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (Penal Code § 832.7(b)(7)).

1013.11.2 DELAY OF RELEASE

Unless otherwise directed by the Chief of Police, the Custodian of Records should consult with a supervisor familiar with the underlying investigation to determine whether to delay disclosure of 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/office] policy, but no longer than 1-year after the date of the [department/office]'s discovery of the misconduct or use of force or allegation of misconduct or use of force, if no tolling occurred.

1013.11.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of qualifying records, the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

- (a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.
- (b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.

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1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:
 - (a) When the criminal proceeding is against someone other than an officer and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the [Department/Office] 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/Office] 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)).

Officer Shift Rotation

1014.1 OFFICER SHIFT ROTATION

The guidelines for this policy will adhere to Article 10 (Work Hours) found in the most current Memorandum of Understanding between the City of Banning and the City of Banning Police Officers' Association.

Request for Change of Assignment

1015.1 PURPOSE AND SCOPE

It is the intent of the Department that all requests for change of assignment are considered equally. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made.

1015.2 REQUEST FOR CHANGE OF ASSIGNMENT

Banning Police personnel wishing a change of assignment are to complete a memorandum requesting consideration for the reassignment. The memorandum should then be forwarded through the chain of command to their Division Lieutenant.

1015.2.1 PURPOSE OF MEMO

The memorandum is designed to aid employees in listing their qualifications for specific assignments. All relevant experience, education and training should be included when completing this form.

The memorandum shall include a listing of all assignments an employee is interested in.

The written request for change of assignment will remain in effect until the end of the calendar year in which it was submitted. Effective January 1st of each year, employees still interested in new positions will need to complete and submit a new Change of Assignment Request form.

1015.3 SUPERVISOR'S COMMENTARY

The officer's immediate supervisor shall make appropriate comments in the space provided on the form before forwarding it to the Division Lieutenant of the employee involved. In the case of patrol officers, the Watch Commander must comment on the request with his/her recommendation before forwarding the request to the Division Lieutenant. If the Watch Commander does not receive the Change of Assignment Request Form, the Division Lieutenant will initial the form and return it to the employee without consideration.

Commendations and Awards

1016.1 PURPOSE AND SCOPE

To develop a procedure to formally recognize and honor Police Department personnel, members of other law enforcements agencies, and private citizens who have preformed commendable acts or services for the Department or for their fellow citizens.

1016.1.1 POLICY

The Department shall strive to officially recognize and honor persons who have performed commendable acts and/or services for the Department or community. Recognition, in the form of Department awards, shall be approved under clear guidelines and criteria. An application for an award should be submitted when the commendable act has clearly met or exceeded award criteria within this directive. Award submissions that are deemed to be marginal may be reduced to a lower award level by the committee or at the Chief's discretion.

The Department Awards Committee will be responsible for reviewing the actions of those nominated and for making recommendations to the Chief. The review of those actions will occur during December of each year and will include reviewing any submitted recommendations through the end of the calendar year.

1016.2 AWARD RECOMMENDATIONS

Applications for formal Department awards may be initiated, completed, or submitted by any member of the Department. An awards application shall be accompanied by a detailed account of the incident including any reports or supporting documentation. The recommendation shall be made on the appropriate Department application form and forwarded to Police Administration via chain of command. Any member within that chain-of-command may make or attach comments regarding the recommendation for consideration by the Awards Committee during the review process.

It is the responsibility of the Chief of Police or his designee to designate employees to serve on the Department Awards Committee and shall be responsible for award submissions for their respective operation. Upon receiving award applications, the Chief of Police or his designee shall:

1016.2.1 REVIEW THE RECOMMENDATION AND SUPPORTING DOCUMENTATION

After review by the Chief of Police or his designee, shall submit all award recommendation(s) to the Department Awards Committee for consideration. The Committee will maintain and archive all locally submitted award applications in police administration and attend scheduled meetings with Department Awards Committee members as needed.

1016.3 AWARDS COMMITTEE

The Awards Committee, appointed annually by the Chief, shall review and evaluate all applications for formal awards. It shall be the responsibility of the Awards Committee to collectively evaluate the submitted applications to ensure appropriateness of the recommendations and to ensure that the criteria have been met. The Awards Committee shall convene during December of each year. The

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Awards Committee will forward all recommendations regarding award applications to the Chief for review and approval. The Chief shall have final decision regarding any award and may at his/her discretion modify or reject any recommendation. The Awards Committee shall be chaired by the Chief of Police's designee.

1016.3.1 PRESENTATION OF AWARDS

It shall be the responsibility of the Awards Committee to coordinate the preparation and presentation of the Department awards.

All presentation medals and civilian commendations shall be accompanied by certificates, which describe the circumstance warranting recognition. Each certificate, letter of commendation, or letter of appreciation shall contain a synopsis of the event(s) meriting the award.

1016.4 AWARD DEFINITIONS

(a) **Medal of Honor**

1. This award is a round silver leafed medallion with a 4 point gold medal in the center with the words "Medal of Honor," across the top of the state seal, with "Banning Police Department" underneath. A golden eagle is attached to the top portion of the silver medallion. A red/white/blue ribbon is suspended from the medal. This medal is accompanied by a red/white/blue ribbon bar. The medal will have the California State seal affixed to the center.
2. The Medal of Honor is given posthumously to a Department member who dies from injuries received while on-duty or acting in an official capacity as a member of the Banning Police Department. The Medal of Honor shall recognize and honor those who made the ultimate sacrifice while serving the citizens of the City of Banning.
3. Deaths not resulting from an injury shall be evaluated for its connection to a prior injury meeting the award's established criteria. To be considered, the injury must be a direct contributing factor, but not necessarily the only contributing factor to the resulting death. A Department member succumbing to a long term deteriorating medical condition may be considered for this award, so long as the medical condition contributing to the death resulted from an injury meeting the award's criteria. The Medal of Honor will be presented to surviving family members.

(b) **Medal of Valor**

1. This award is a gold starburst suspended from a blue/white/red ribbon attached, inscribed with the word's "Medal of Valor." Below the words, medal of valor and above the state seal, will be "Banning." Below the state seal will be "Police Dept." The metal is accompanied by a blue/white/red ribbon bar. The medal will have the California State seal affixed to the center.

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2. The Medal Valor is the Department's highest award and may be awarded to Department members who distinguish themselves by conspicuous under exigent, or life-threatening conditions, and consciously perform acts of bravery or other outstanding feats while facing imminent danger.
3. There must be no margin of doubt in awarding this award. The Department member's act or acts must be so outstanding that it clearly distinguishes their gallantry and intrepidity beyond the call of duty, and is distinguishable from lesser forms of bravery or courage for which the Department's "Medal of Courage" award would be most appropriate. The act or deed if not done or performed, would not have subjected the Department member to any justified criticism. The act or deed in its totality must be without detriment or controversy to the mission and traditions of the Department.

(c) Medal of Courage

1. This award is a round gold leafed medallion with a 4 point gold medal in the center, with the word "Courage" on the top. Below the word courage and above the state seal will be the word "Banning." Below the state seal will be the words "Police Dept." The medal will have the California State seal affixed to the center. The medal will be suspended from a blue/white/blue ribbon. The medal is accompanied by a blue/white/blue ribbon bar.
2. The Medal of Courage is awarded to Department members who distinguish themselves by acts of heroism performed at great personal risk of life or limb. These acts shall demonstrate great courage while facing extreme danger, but to a lesser degree than required for the Medal of Valor. The act or deed in its totality must be without detriment or controversy to the mission and traditions of the Department.
3. The Medal of Courage may be awarded to a member of another law enforcement agency who, while assisting this department, performs in the above-described manner.

(d) Lifesaving Award

1. This award is a round silver medallion with a silver wreath on the outer edges and suspended from a white/light blue/white/light blue ribbon, inscribed with the word "Lifesaving" between the wreath and the state seal. Beneath the state seal will be the words "Banning Police Dept." The medal will have the California State seal affixed to the center. The medal is accompanied by a white/light blue/white/light blue ribbon bar.
2. The Lifesaving Award will be awarded to Department members who distinguish themselves by personally performing acts that save human lives which otherwise may have resulted in death. The acts need not be performed under conditions

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requiring bravery or exposure to great personal risk. To be considered, the person having been saved need not to sustain life in long term, but by the deliberate act of the Department member, must have been prevented from dying at the time and place that the act or aid was performed and that life was substantially prolonged as a result of the act or aid performed.

3. The Lifesaving Award may be awarded to a member of another law enforcement agency who, while assisting this Department, performs an act, which results in the saving of a human life.

(e) Distinguished Service Award

1. This award is a silver star burst with the California State seal in the center. Above the state seal inscribed with the words "Distinguished Service". Below the state seal inscribed with the words "Banning Police Dept". The medal is suspended from a blue ribbon. The medal is accompanied by a blue ribbon bar.
2. The Distinguished Service Medal is awarded to members of this Department who have demonstrated exceptional meritorious service over a prolonged period. This award is not intended to recognize length of service per se. The demonstrated achievements and exceptional performance of duty shall clearly be above that which would normally be expected, given the members rank and assignment, and shall contribute materially to the mission and success of the Department.

(f) Medal of Merit

1. This award is an 8 sided gold medallion with raised outer edges, the California State seal in the center, suspended on a ribbon with yellow in the center, thin light blue stripes on both edges and a thin red stripe between the yellow and light blue. Centered on the medallion is a silver bar inscribed with the words "Medal of Merit" inscribed at the top and "Banning Police Department" along the bottom. The medal is accompanied by a yellow stripe in the center, thin light blue stripes on both edges and a thin red stripe between the yellow and light blue ribbon bar.
2. The Medal of Merit is awarded to Department members who perform a superior accomplishment, which results in a significant contribution to the mission, success or efficient operation of the Department. Such accomplishments may result from a single act of exceptional personal contribution during a critical time or incident, or that, which results in major improvements in technology, organization, or Department procedures.
3. This award shall be distinguished from that of the Chief's Commendation Award in that the act or accomplishment shall be of an extraordinary and superior nature and shall unequivocally contribute to the mission and success of the Department.

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4. The Medal of Merit may be awarded to a member of another law enforcement agency who performs a superior accomplishment for the Department.

(g) Chief's Purple Heart

1. This award is a heart shaped pendant with a Purple Heart center. The outer edges will be gold colored. A gold colored strip attached at the top portion of the medal inscribed with the words "Purple Heart" and a small red/white/blue crest below the words. A purple ribbon with thin white edges attached to the top portion of the medal. The medal is accompanied by a purple with thin white edged ribbon bar.
2. The Chief's Purple Heart recognizes a Department member who, while acting in an official capacity, is wounded or injured as the result of a hostile or life threatening encounter. To be considered, the wound or injury need not be a physical lesion or visible contusion, but shall require treatment from a competent treating authority given the nature and seriousness of the wound or injury.

(h) Chief's Commendation-Chief's Level

1. The Chief's Commendation-Chief's Level is a framed certificate presented by the Chief at the Department's award banquet. The certificate will be presented with the recipients name and year awarded.
2. The Chief's commendation certificate is awarded to Department members who perform an outstanding act or acts of service, which assist the Department in fulfilling its objectives, or demonstrate exceptional job performance, or materially contribute to the Department's mission. Such acts shall be evaluated on the basis of being above and beyond normal job requirements accomplished with perseverance, tenacity, and dedication to duty.
3. The Chief's Commendation may be awarded to anyone; Department member, member of another law enforcement agency, member of a public service entity, or civilian who performs in the above described manner.

(i) Chief's Commendation-Command Level

1. The Chief's Commendation-Command Level is a framed certificate signed by the Chief and is awarded by the Deputy Chief or Lieutenant at the command level. It shall describe the actions for which the award is given.
2. The Chief's Commendation-Command Level certificate is awarded to Department members who perform an outstanding act or acts of service, which assists the Department in fulfilling its objectives, or demonstrates excellent job performance, or materially contributes to the Departments mission. Such acts shall be evaluated on the basis of being above and beyond normal job requirements.

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3. The Chief's Commendation may be awarded to anyone; Department member, member of another law enforcement agency, member of a public service entity, or civilian who performs in the above described manner.

(j) Unit Citation Award

1. A unit citation award for outstanding performance may be conferred upon an organizational unit of the Department. The Accomplishment must be the result of a combined effort of the unit. The award consists of a certificate, a maroon and white ribbon bar.
2. Note: Individual members of the unit who contribute substantially to the success of the unit may, in addition, be submitted for individual recognition or award, when such contribution meets the criteria for an award.

(k) Humanitarian Service Award

1. The Human Service Award is a certificate which will be awarded to Department members who, without direction of the Department or as a matter of duty or expectation of assignment, actively and substantially participates in organizations or causes, whose sole purpose and mission is humanitarian in nature. To be considered for this award, Department members need not contribute monetarily nor be given consideration for recognition based solely on monetary contributions. Nominees must be recognized as substantially instrumental to the success of the organization or cause, as verified by the organization or others with first hand knowledge. Nominations for this recognition can be made by Department members or by members of the public. The Chief shall award this recognition at his/her discretion.

(l) Citizen Awards

1. Distinguished Service Award

- (a) This award is an 8 sided gold medallion with raised outer edges, the California State seal in the center, suspended on a ribbon with blue in the center, thin orange stripes on both edges and a thin white stripe between the blue and orange stripes. Centered on the medallion is a silver bar inscribed with the words "Distinguished Service" inscribed at the top and "Banning Police Department" along the bottom. The medal is accompanied by a blue stripe in the center, thin orange stripes on both edges and a thin white stripe between the blue and orange stripe, ribbon lapel bar suitable for wearing on civilian dress attire.
- (b) The Distinguished Service award is the Department's highest civilian honor. Recipients of this award shall be selected by the Chief. This award is presented to private citizens for a single act or acts of distinguished service involving great risk of personal injury to one self or others or

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an act of meritorious service of major contribution to the Department or community, which exemplifies and fulfills the Department's objective's.

2. Community Service Award

- (a) This award is a round silver medallion with a silver wreath on the outer edges and suspended from a white/blue/white ribbon, inscribed with the word "Community Service" between the wreath and the state seal. Beneath the state seal will be the words "Banning Police Department." There is no ribbon bar for this award.
- (b) The Community Service award is the Department's second highest civilian honor. This award is presented to private citizens for exceptional community service, which assist the Department in fulfilling its objectives. The exceptional community service may involve a single act or acts, or result from sustained exceptional commitment and dedication to community service.

3. Special Class Recognitions

- (a) The Chief may recognize those employees and volunteers who, by classification or assignment, exemplify all of the qualities, attributes and characteristics of their class. To be considered, those who are nominated must have distinguished themselves apart from all others, and must stand as an example for all to follow. Their contributions and accomplishments to the mission of the Department must be in keeping with the highest standards and traditions of the Banning Police Department.
- (b) The intent is not to recognize length of service nor is it recognize a specific deed, act or project. Rather, the intent is to recognize sustained exemplary performance throughout the award period.
- (c) These awards will be presented at the annual awards ceremony and will consist of a plaque with the persons name and year awarded. Categories of classes for recognition include, but are not limited to the following:
 - 1. Employee
 - 2. Classified Employee of the Year
 - 3. All classified employees are eligible, regardless of assignment
 - 4. Public Safety Communication Officers of the Year
 - 5. All Public Safety Communications Officers are eligible, regardless of assignment.

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6. Supervisor of the Year (All Department supervisors sworn and non-sworn (not classified as management), are eligible, regardless of assignment.
 7. Manager of the Year (All Department members, sworn or non-sworn, who are classified as management, are eligible, regardless of assignment.)
 8. Volunteers
- (m) **Explorer of the Year (All explorer scouts in good standing are eligible, regardless of assignment.)**
- (n) **Reserve of the Year (All Reserve Police Officers, regardless of rank, level or assignment are eligible.)**
- (o) **Volunteer of the Year (All Department volunteers not listed in other volunteer classes for recognition are eligible, regardless of assignment.)**
- (p) **9-1-1 for Kids Hero Award**
1. This award is given to children who call 911 to report a crime, help save lives or property. The purpose is to award children who have demonstrated an understanding of the proper use of the 911 system.
 2. Generally the program is designed for children 13 years of age or younger; however, exceptions may be considered under special circumstances.
 3. The 911 call must either be self initiated by the child and / or the child followed pre-arrival medical instructions, or performed some other heroic act. The award should be given to children who display courageous skills along with good judgment, above and beyond what would be expected of their specific age.
 4. When a dispatcher receives a 911 call from a child reporting a crime, the dispatcher can "lock" the call on the Vesta dispatch phone system. The dispatcher will then use the saved information and complete an awards application form with the time and date of the incident. The dispatcher will write a brief description of the incident, attach a printout of the incident and request a copy of the 911 call to be recorded for review purposes. The application will then be submitted to the awards committee for review.
 5. The program has its own website and has specific medals, certificates and a 911 Hero ceremony kit for this award. These awards will be purchased through the website. The awards committee will then recommend to the Chief, what award(s) combination will be given for each specific incident based upon the specifics of each incident.

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6. A series of multiple awards may be given at one time. It is recommended that awards be given at the recipient's school classroom or auditorium. Not only will this enhance the child's experience, but it will also provide an excellent opportunity to educate and promote the proper use of 911.
7. The ceremony can also be adjusted for other venues as directed by the Chief. It is beneficial to include the press in these ceremonies to recognize the recipient's accomplishment. <http://www.911forkids.com/index.php>

Commendations and Awards

1017.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Banning Police Department and individuals from the community.

1017.2 POLICY

It is the policy of the Banning Police Department to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its members and individuals from the community through commendations and awards.

1017.3 COMMENDATIONS

Commendations for members of the [Department/Office] or for individuals from the community may be initiated by any [department/office] member or by any person from the community.

1017.4 CRITERIA

A meritorious or commendable act may include, but is not limited to:

- Superior handling of a difficult situation.
- Conspicuous bravery or outstanding performance.
- Any action or performance that is above and beyond typical duties.

1017.4.1 [DEPARTMENT/OFFICE] MEMBER DOCUMENTATION

Members of the [Department/Office] should document meritorious or commendable acts. The documentation should contain:

- (a) Identifying information:
 - 1. For members of the [Department/Office] - name, division and assignment at the date and time of the meritorious or commendable act
 - 2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the member submitting the documentation.

1017.4.2 COMMUNITY MEMBER DOCUMENTATION

Documentation of a meritorious or commendable act submitted by a person from the community should be accepted in any form. However, written documentation is preferred. [Department/Office] members accepting the documentation should attempt to obtain detailed information regarding the matter, including:

- (a) Identifying information:
 - 1. For members of the [Department/Office] - name, division and assignment at the date and time of the meritorious or commendable act

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2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the person submitting the documentation.

1017.4.3 PROCESSING DOCUMENTATION

Documentation regarding the meritorious or commendable act of a member of the [Department/Office] should be forwarded to the appropriate Division Commander for his/her review. The Division Commander should sign and forward the documentation to the Chief of Police for his/her review.

The Chief of Police or the authorized designee will present the commendation to the [department/office] member for his/her signature. The documentation will then be returned to the Administration secretary for entry into the member's personnel file.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the Administration Division Commander. The documentation will be signed by the Division Commander and forwarded to the Chief of Police for his/her review. An appropriate venue or ceremony to acknowledge the individual's actions should be arranged. Documentation of the commendation shall be maintained in a file designated for such records.

1017.5 AWARDS

Awards may be bestowed upon members of the [Department/Office] and individuals from the community. These awards and their criteria are documented in the Department's Commendations and Awards policy.

Performance Improvement Program

1018.1 PURPOSE AND SCOPE

The policy of the Banning Police Department is that all employees are expected to perform in a competent manner in furtherance of the mission and objectives of the Department and in accordance with the law and the policies and procedures of the City of Banning and the Police Department.

1018.2 PERFORMANCE IMPROVEMENT PROGRAM ESTABLISHED

In furtherance of the Performance Improvement Program, the Department establishes this procedure whereby substandard/unacceptable performance can be identified and an appropriate program of corrective action can be established.

- (a) To accomplish this objective, this procedure is developed upon the following key criteria:
 - 1. Identification of the substandard/unacceptable performance/behavior,
 - 2. Communication of the deficiencies to the employee,
 - 3. Formal documentation of the deficiency and the expected change(s), and
 - 4. Development of the document which specifies an action plan.
 - 5. Performance Improvement Programs are not intended to be disciplinary in nature and therefore will not be made a part of an employee's personnel file if the employee successfully completes the program.
 - 6. Failure to successfully complete the program, resulting in reduction in pay, demotion, or termination, will result in the inclusion of the program documentation in the employee's personnel file.
 - 7. Program documentation for cases involving successful completion of the program will be maintained in a separate file by the Office of the Chief of Police until such time as it may be disposed of per current City Council Resolution for records destruction.

1018.3 INITIAL SUPERVISORY CORRECTIONS

When minor policy infractions and/or performance deficiencies are noted for the first time, verbal counseling is the preferred method for corrective action.

- (a) When repeated policy infractions and/or performance deficiencies are noted, formal counseling sessions should be initiated. Such counseling sessions should be documented on the Supervisor's Log or memo.
- (b) The counseling session should address each policy infraction and/or performance deficiency which has been identified and the expected corrective action by the employee for each one.

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- (c) The documentation of the counseling session should list each policy infraction and/or performance deficiency along with the expected corrective action.
- (d) Should formal counseling fail to correct the performance deficiency and/or ensure compliance with policy, a Performance Improvement Program shall be implemented.

1018.4 PERFORMANCE IMPROVEMENT PROGRAM OVERVIEW

1018.4.1 THE PERFORMANCE IMPROVEMENT PLAN PROCESS INCLUDES

- (a) The supervisor prepares a draft Performance Improvement Plan (P.I.P.).
- (b) The supervisor forwards the draft P.I.P. to his/her supervisor for approval. The draft P.I.P. will be forwarded through the chain-of-command to the Chief of Police for approval.
- (c) The supervisor discusses the draft P.I.P. with the employee and prepares the final version of the P.I.P.
- (d) The supervisor implements the Supervisory Assistance Sections and conducts follow-up counseling.
- (e) The supervisor completes the final progress report and forwards the completed file to the Division Lieutenant for review and approval.
- (f) Should punitive action be necessary; it will be implemented in accordance with the Department's Complaint Policy.

1018.4.2 HEADING

Standard memo headings shall be used:

TO: (Name of the affected employee)

FROM: (Name of the employee's supervisor)

Subject: FAILURE TO MEET PERFORMANCE STANDARDS

1018.4.3 PERFORMANCE STANDARDS AND HOW YOU FAILED TO MEET THEM

- (a) List each performance standard in which the employee is deficient. Example: "An employee shall be punctual in reporting for duty at the time and place specified by his superior. (Cite specific Manual Section)
- (b) List specifically and with detail each occasion where the employee failed to meet the listed standard.
- (c) Repeat this process for each standard.

1018.4.4 HOW TO IMPROVE YOUR PERFORMANCE

This section is a summary of the positive behavior the supervisor expects the employee to exhibit in order to be regarded as an acceptable employee.

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1018.4.5 SUPERVISORY ASSISTANCE AND GUIDANCE

- (a) The supervisor sets a review schedule where the supervisor will review the progress of the employee with him/her. Such reviews will be done either weekly or bi-weekly.
- (b) The supervisor may direct the employee to obtain training and/or counseling when appropriate.

1018.4.6 TIME FRAME CONSEQUENCES

- (a) The supervisor will set the duration of the Performance Improvement Program.
- (b) Normally, a Performance Improvement Program will be 90 days in length. The minimum specified time for such a program is 60 days and the maximum time is 120 days.
- (c) Should the employee progress at an accelerated rate, the Performance Improvement Program may be shortened from the specified time.
- (d) The consequences of failing to satisfactorily complete the Performance Improvement Program must be clearly stated. In most situations, the consequence will be termination for failure to meet the specified performance standards within the allotted time. When appropriate, demotion and reduction in pay may be administered.

1018.4.7 THE INITIAL INTERVIEW

- (a) The supervisor will address each performance deficiency identified in the Performance Improvement Plan along with the expected corrective behavior.
- (b) The supervisor should emphasize the objectives of the Performance Improvement Process as stated in this General Order.
- (c) The supervisor should advise the employee of the intent of the supervisor to assist the employee in his/her improvement.
- (d) The supervisor should encourage employee input and take appropriate notes concerning the employee's viewpoints. This information may be incorporated into the Performance Improvement Plan.
- (e) The supervisor will advise the employee of the review process and the schedule for the review sessions.
- (f) The supervisor will inform the employee of any outside training and/or counseling that is required as part of the Performance Improvement Program.
- (g) The supervisor will inform the employee of the consequences that may result in the event the employee fails to satisfactorily complete the Performance Improvement Program.

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1018.4.8 FOLLOW-UP COUNSELING

- (a) During the duration of the Performance Improvement Program, the supervisor will meet in formal counseling sessions with the employee as specified in the Performance Improvement Plan.
- (b) The supervisor will review the employee's progress as it relates to each identified performance deficiency.
- (c) Appropriate reinforcement should be given to the employee depending on whether the employee is improving or not.
- (d) The counseling session will be documented in a Supervisor's Log.

1018.4.9 FINAL REPORT

- (a) At the end of the Performance Improvement Program, the supervisor shall prepare a final report regarding the employee's progress in the Performance Improvement Program.
- (b) When the employee successfully completes the program, the final report should reinforce the employee's improved performance and encourage continued acceptable performance.
- (c) In the event the employee does not successfully complete the program, the report should:
 - 1. Specify those standards the employee failed to achieve and how he/she failed to do so,
 - 2. State that the supervisor is recommending that the penalty contained in the Performance Improvement Plan as a consequence for non-improvement, be implemented. and
 - 3. Contain a detailed account of the employee's comments regarding the final report.
- (d) The Final Report along with all follow-up reports and other appropriate documentation will be forwarded via the chain-of-command, to the Chief of Police for review and appropriate action.

Fitness for Duty

1019.1 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).

1019.1.1 COVERED EMPLOYEES

The contents of this policy section apply to all department employees.

1019.2 EMPLOYEE RESPONSIBILITIES

- (a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position.
- (b) Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints.
- (c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.
- (d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

1019.3 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 Lieutenant, 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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1019.4 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.

1019.5 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 Lieutenant 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.

1019.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief of Police may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Department of Human Resources to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
- (b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties. If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)).
- (c) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.
- (d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the

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examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

1019.7 LIMITATION ON HOURS WORKED

Absent emergency operations members should not work more than:

- 16 hours in one day (24 hour) period or
- 30 hours in any 2 day (48 hour) period or
- 84 hours in any 7 day (168 hour) period

Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

1019.8 APPEALS

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty examination shall be entitled to an administrative appeal as outlined in the Personnel Complaints Policy.

Meal Periods and Breaks

1020.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as possible shall conform to the policy governing all City employees that has been established by the City Manager.

1020.1.1 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 officers shall take their breaks within the city limits unless on assignment outside of the city.

The time spent for the meal period shall not exceed the authorized time allowed by the employee's supervisor or as specified by the current MOU.

Meal periods should not be taken between the hours of 1400 and 1800 hours by officers working a patrol assignment.

1020.1.2 15 MINUTE BREAKS

Each employee is entitled to a 15 minute break, near the mid point, for each four-hour work period. Only one 15 minute break shall be taken during each four hours of duty. No breaks shall be taken during the first or last hour of an employee's shift unless approved by a supervisor.

Employees normally assigned to the police facility shall remain in the police facility for their breaks. This would not prohibit them from taking a break outside the facility if on official business.

Lactation Breaks

1021.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding reasonable accommodations for lactating members (Labor Code § 1034).

1021.2 POLICY

It is the policy of the Banning 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).

1021.3 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/office] operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

1021.4 PRIVATE LOCATION

The [Department/Office] 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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Lactation Breaks

Authorized lactation breaks for members assigned to the field may be taken at the nearest appropriate private area.

1021.5 STORAGE OF EXPRESSED MILK

Any member storing expressed milk in any authorized refrigerated area within the [Department/Office] shall clearly label it as such and shall remove it when the member's shift ends.

1021.5.1 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).

Payroll Records

1022.1 PURPOSE AND SCOPE

This policy provides the guidelines for completing and submitting payroll records of [department/office] members who are eligible for the payment of wages.

1022.1.1 RESPONSIBILITY FOR COMPLETION OF TIME CARDS

Employees are responsible for the accurate and timely submission of time cards for the payment of wages. Completed time cards will be submitted to the employee's immediate supervisor who will review it for accuracy and forward it to the appropriate Division Lieutenant for review and approval.

1022.1.2 TIME REQUIREMENTS

All employees are paid on a bi-weekly basis usually on Friday with certain exceptions such as holidays. Time cards shall be completed and submitted to Administration no later than the beginning of the business day on the Monday time cards are due to Finance, unless specified otherwise.

1022.2 POLICY

The Banning Police Department maintains timely and accurate payroll records.

1022.3 RESPONSIBILITIES

Members are responsible for the accurate completion and timely submission of their payroll records for the payment of wages.

Supervisors are responsible for approving the payroll records for those under their commands.

1022.4 TIME REQUIREMENTS

Members who are eligible for the payment of wages are paid on a scheduled, periodic basis, generally on the same day or date each period, with certain exceptions, such as holidays. Payroll records shall be completed and submitted to Administration as established by the City payroll procedures.

1022.5 RECORDS

The Administration 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).

Overtime Compensation Requests

1023.1 PURPOSE AND SCOPE

It is the policy of the Department to compensate non-exempt salaried employees who work authorized overtime either by payment of wages as agreed and in effect through the Memorandum of Understanding (MOU), or by the allowance of accrual of compensatory time off. In order to qualify for either, the employee must complete and submit a Request for Overtime Payment as soon as practical after overtime is worked.

1023.1.1 DEPARTMENT POLICY

Because of the nature of police work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Department. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

Short periods of work at the end of the normal duty day (e.g., less than one hour in duration) may be handled unofficially between the supervisor and the employee by flexing a subsequent shift schedule to compensate for the time worked rather than by submitting requests for overtime payments. If the supervisor authorizes or directs the employee to complete a form for such a period, the employee shall comply.

The individual employee may request compensatory time in lieu of receiving overtime payment; however, the employee may not exceed the authorized hours as stated in the current MOU.

Employees working overtime, funded through grants or sources other than city funds, shall be compensated in cash only.

1023.2 REQUEST FOR OVERTIME COMPENSATION

Employees shall submit all overtime compensation requests to their immediate supervisors as soon as practicable for verification and forwarding to the Administration Division.

Failure to submit a request for overtime compensation in a timely manner may result in discipline.

1023.2.1 EMPLOYEES RESPONSIBILITY

Employees shall complete the requests immediately after working the overtime and turn them in to their immediate supervisor or the Watch Commander. Employees submitting overtime cards for on-call pay when off duty shall submit cards to the Watch Commander the first day after returning for work.

1023.2.2 SUPERVISORS RESPONSIBILITY

The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request.

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Overtime Compensation Requests

After the entry has been made on the employee's time card, the overtime payment request form is forwarded to the employee's Division Commander for final approval.

1023.2.3 DIVISION LIEUTENANT RESPONSIBILITY

Division Lieutenants, after approving payment, will forward the form to the City's Finance Department.

1023.3 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status. In some cases, the Memorandum of Understanding provides that a minimum number of hours will be paid, (e.g., two hours for Court, four hours for outside overtime). The supervisor will enter the actual time worked.

1023.3.1 VARIATION IN TIME REPORTED

Where two or more employees are assigned to the same activity, case, or court trial and the amount of time for which payment is requested varies from that reported by the other officer, the Watch Commander or other approving supervisor may require each employee to include the reason for the variation on the overtime payment request.

Outside Employment

1024.1 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.

1024.1.1 DEFINITIONS

Outside Employment - Any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

Outside Overtime - Any member of this department who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

1024.2 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of the Chief of Police. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete an Outside Employment Application which shall be submitted to the employee's immediate supervisor. The application will then be forwarded through channels to the Chief of Police for consideration.

If approved, the employee will be provided with a copy of the approved permit. Unless otherwise indicated in writing on the approved permit, a permit will be valid through the end of the calendar year in which the permit is approved. Any employee seeking to renew a permit shall submit a new Outside Employment Application in a timely manner.

Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial (Penal Code § 70(e)(3)).

1024.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Chief of Police within ten days of the date of denial.

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If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current Memorandum of Understanding (MOU).

1024.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment permit may be revoked or suspended under the following circumstances:

- (a) Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief of Police may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit
- (b) Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline
- (c) If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of department policy, the permit may be suspended or revoked
- (d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment permit may be subject to similar restrictions as those applicable to the employee's full time duties until the employee has returned to a full duty status

1024.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

- (a) Involves the employee's use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department
- (c) Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department
- (d) Involves time demands that would render performance of the employee's duties for this department less efficient

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1024.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

Any private organization, entity or individual seeking special services for security or traffic control from members of this department must submit a written request to the Chief of Police in advance of the desired service. Such outside extra duty overtime assignments will be assigned, monitored and paid through the Department.

- (a) The applicant will be required to enter into an indemnification agreement prior to approval.
- (b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.
- (c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:
 - 1. The officer(s) shall wear the departmental uniform/identification.
 - 2. The officer(s) shall be subject to the rules and regulations of this department.
 - 3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.
 - 4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
 - 5. Outside security services shall not be subject to the collective bargaining process.
 - 6. No officer may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief of Police.

1024.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official police action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to department policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

1024.3.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Division Commander, undercover officers or officers assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity which might reasonably disclose the officer's law enforcement status.

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1024.4 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.

1024.4.1 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.

1024.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an employee terminates his or her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief of Police through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

1024.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief of Police whether such outside employment should continue.

In the event the Chief of Police determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

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- (a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the City's professional medical advisors.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.
- (c) The employee's failure to make timely notice of their intentions to their supervisor.

When the disabled member returns to full duty with the Banning Police Department, a request (in writing) may be made to the Chief of Police to restore the permit.

Extra Duty

1025.1 PURPOSE AND SCOPE

The purpose of this General Order is to adopt a policy creating a departmental procedure for handling requests by public and private entities for law enforcement services.

1025.1.1 POLICY

On occasion the Police Department is requested to provide additional law enforcement services to special events sponsored by public and private entities. The Department has classified these events as extra duty. The purpose of this procedure is to insure uniform application of extra duty requests and sign up procedures.

1025.1.2 DEFINITION

Extra duty is defined as the funding of Police personnel and equipment to provide law enforcement protection at a specific event of short duration.

- (a) These events may be one time only or may be on-going and pre-scheduled.
- (b) Extra Duty may be requested by private citizens, community service organizations, local, county, and state governments, church groups, and schools.

1025.2 EXTRA DUTY REQUEST PROCEDURE

Outside entities requesting police officers for extra duty events will complete and submit an Extra Duty Request Form available at the police department.

- (a) The request form will be accepted at the front counter of the police department and forwarded to a Lieutenant for review and processing.
- (b) The Lieutenant will review the request and forward it, with recommendations on personnel assignments, to the Chief of Police for final review and approval.
- (c) Both approved and denied requests will be forwarded back to the Lieutenant handling the request. The Lieutenant will contact the outside entity and either advise them that the request has been denied or if approved what the cost will be for the officers working the event.
 - 1. If approved, the outside entity will be responsible for providing payment for the assigned officer(s) prior to the event. The outside entity must submit a check to the Lieutenant handling the request, payable to the City of Banning, for the full cost of the officers.
- (d) The Lieutenant will submit a copy of the Extra Duty Request Form with the check to the Finance Department.
- (e) The Lieutenant or his designee is responsible for posting sign-ups for the extra duty event.

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1025.3 OFFICER FEES FOR EXTRA DUTY

Refer to the existing Miscellaneous Police Department Fee Schedule adopted by the Banning City Council for the current fees for extra duty police services.

1025.4 DUTY TIME

- (a) Arrival time at the location of the event will be the time indicated on the sign-up sheet at the location specified on the special events sign-up sheet.
 - 1. As an example, if sign-up is for a school function that starts at 1800 hours, the officer must be at the location at 1800 hours with all necessary equipment.
- (b) If the ending time is 2200 hours, the officer will finish his duties at the location at that time. If an officers EOW at the extra duty event is delayed, officers will notify the on-duty Watch Commander of the delay and submit a memo to the Lieutenant who coordinated the event indicating the length and reason for the delay. The Lieutenant will determine if the outside entity for the event is responsible for additional fees.

Occupational Disease and Work-Related Injury Reporting

1026.1 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.

1026.1.1 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.).

1026.2 POLICY

The Banning 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.).

1026.2.1 INJURIES REQUIRING MEDICAL CARE

All work related injuries and work related illnesses requiring medical care must be reported to the Risk Management Office in writing on the report of injury form(s) provided to the employee or completed by the employee's supervisor. Copies of the completed form(s) will be forwarded to the employee's Division Lieutenant, the Department's Administrative Secretary, and the City's Personnel Director. An Employee's Claim for Workers' Compensation Benefits form shall be provided to the injured employee within 24 hours from the time the injury/illness was discovered, excluding weekends and holidays.

1026.2.2 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).

1026.2.3 EMPLOYEE'S RESPONSIBILITY

Any employee sustaining any work-related injury or illness, as well as any employee who is involved in any accident while on duty shall report such injury, illness or accident as soon as practical to his/her supervisor.

Any employee observing or learning of a potentially hazardous condition is to promptly report the condition to his/her immediate supervisor.

Any employee sustaining a work-related injury or illness that requires relief from duty is required to be examined/treated by a doctor.

Any employee sustaining a work-related injury or illness that requires relief from duty is also required to comply with departmental policies and directives relating to the duty to periodically call

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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. Limited-service duty 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.

Disciplinary action may be taken for an employee's failure to comply with his procedure.

1026.2.4 SUPERVISOR'S RESPONSIBILITY

A supervisor learning of any work-related injury, illness or accident shall promptly prepare the appropriate forms as outlined under Policy Manual § 1042.2. Updated copies of forms with instructions for completion provided by Risk Management are kept in the Sergeant's office.

For work-related accidents, injuries or illness not requiring professional medical care, a Supervisor's Report of Injury form shall be completed in triplicate. All copies of the completed form shall be forwarded to the supervisor's Division Lieutenant, through the chain of command.

When an accident, injury, or illness is reported initially on the Supervisor's Report of Injury form and the employee subsequently requires professional medical care, the State of California Employer's Report of Occupational Injury or Illness form shall then be completed. The injured employee shall also sign the form in the appropriate location.

Every injured employee must be provided with an Employee's Claim for Workers' Compensation Benefits Form (DWC-1) within 24 hours, regardless of the nature of illness or injury. Labor Code § 5400 makes failure to comply with the 24-hour reporting procedure a misdemeanor.

Copies of any reports documenting the accident or injury should be forwarded to the Division Lieutenant as soon as they are completed.

1026.2.5 DIVISION COMMANDER RESPONSIBILITY

The Division Lieutenant 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.

1026.2.6 CHIEF OF POLICE RESPONSIBILITY

The Chief of Police shall review and forward copies of the report to the Department of Human Resources. Any copies of the report and any related documents retained by the Department shall be filed in the employee's confidential medical file and not in the employee's personnel file (see Policy Manual § 1026).

1026.3 RESPONSIBILITIES

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1026.3.1 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).

1026.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any occupational disease or work-related injury should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related Citywide disease- or injury-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Illness and Injury Prevention policies apply and take additional action as required.

1026.3.3 DIVISION LIEUTENANT RESPONSIBILITIES

The Division Lieutenant who receives a report of an occupational disease or work-related injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Chief of Police, the City's risk management entity, and the Administration Division Lieutenant to ensure any required Division of Occupational Health and Safety Administration (Cal/OSHA) reporting is made as required in the illness and injury prevention plan identified in the Illness and Injury Prevention Policy.

1026.3.4 CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police shall review and forward copies of the report to the Department of Human Resources. Copies of the report and related documents retained by the [Department/Office] shall be filed in the member's confidential medical file.

1026.4 OTHER DISEASE OR INJURY

Diseases and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the appropriate Division Lieutenant through the chain of command and a copy sent to the Administration Division Lieutenant.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

1026.4.1 EMPLOYEE TO REPORT INITIAL CONTACTS

When an employee sustains work-related injuries caused by another person and is then approached by such person or an agent, insurance company, or attorney and offered a settlement of claims, that employee shall take no action other than to make a written report of this contact to his/her supervisor as soon as possible.

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1026.5 REPORTING REQUIREMENTS FOR EMPLOYEES UNABLE TO WORK DUE TO WORK RELATED INJURIES

Employees injured on duty and requiring a relief from duty in excess of one week shall be required to maintain contact with the Department's Administration through the following manner:

- (a) Employees shall contact the Administrative Secretary between 0800 and 0830 hours on the last Friday of each pay period to confirm their IOD status for time-card completion purposes.
- (b) Employees shall provide a phone number with message taking capabilities they can be reached at between the hours of 0800-1700, Monday through Friday, excluding holidays. Employees shall return phone messages within 24 hours by speaking with the department representative who left the message. Messages left the day before a weekend or holiday shall be responded to before the end of the next regular work day.
- (c) Employees without a phone, with message taking capabilities, shall contact the Department's Communication Center on a daily basis, Monday through Friday, between 0800 and 0830 hours, excluding holidays for messages or directions from Department Administration.
- (d) The Chief of Police or his designee has the ability to waive this policy based on the severity of employees injuries and their ability to use a phone.

1026.5.1 ACCESS TO DEPARTMENT FACILITIES, PROPERTY, AND EQUIPMENT WHILE ON MEDICAL LEAVE OR EXTENDED TIME OFF

Employees out on Medical Leave or Extended time off, will have their access to the police station, police department property, and department vehicles temporarily suspended until their status is reinstated to return to work and has been approved by the Chief of Police. It is mandatory that employees out on leave contact the Executive Assistant or Banning Police Administration, who may direct the On Duty Watch Commander to make arrangements to access Banning Police Department facilities, property and / or equipment, to include accessing personally owned property that may be stored on Banning Police Department grounds, property or vehicles. If approved the employee will be accompanied by an Administrator or the On Duty Watch Commander while on Banning Police Department property. At the conclusion of the employee accessing the Banning Police Department property, an email will be sent by the administrator or On Duty Watch Commander documenting the event.

There shall be no third-party access to the Banning Police Department facilities, property and / or equipment, to include accessing personally owned property that may be stored on Banning Police Department grounds, property, or vehicles with the rare exception the employee is to become incapacitated and with the approval of the Chief of Police, Then an appointment will be made with the Executive Assistant or Banning Police Administration, who may direct the On Duty Watch Commander to retrieve an employee's personal belongings.

1026.6 SETTLEMENT OFFERS

When a member sustains an occupational disease or work-related injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or

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attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

Personal Appearance Standards

1027.1 PURPOSE AND SCOPE

In order to project uniformity and neutrality toward the public and other members of the [department/office], employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this [department/office] and for their assignment.

1027.2 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.

1027.2.1 HAIR

Hairstyles of all members shall be neat in appearance. For male sworn members, hair must not extend below the top edge of the uniform collar while assuming a normal stance.

For female sworn members, hair must be no longer than the horizontal level of the bottom of the uniform patch when the employee is standing erect, worn up or in a tightly wrapped braid or ponytail.

1027.2.2 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.

1027.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

1027.2.4 FACIAL HAIR

Facial hair in the form of a groomed and maintained mustache, goatee, or beard is authorized. Facial hair must not be longer than one-half (1/2) inch in length. Distinct cheek and neck lines are mandatory. All facial hair will be worn in a manner that reflects a professional image on the department while in civilian attire and uniform.

1027.2.5 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.

1027.2.6 JEWELRY

For the purpose of this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches, and tie tacks or tie bars. Jewelry shall present a professional image and may not create a

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safety concern for the [department/office] member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related, or obscene language is not allowed.

- (a) Necklaces shall not be visible above the shirt collar.
- (b) Earrings shall be small and worn only in or on the earlobe.
- (c) One ring or ring set may be worn on each hand of the [department/office] member. No rings should be of the type that would cut or pose an unreasonable safety risk to the member or others during a physical altercation, if the member is assigned to a position where that may occur.
- (d) One small bracelet, including a bracelet identifying a medical condition, may be worn on one arm.
- (e) Wristwatches shall be conservative and present a professional image.
- (f) Tie tacks or tie bars worn with civilian attire shall be conservative and present a professional image.

1027.3 TATTOOS

See Tattoos, Brandings, and Scarifications Policy.

1027.4 BODY PIERCING OR ALTERATION

See Tattoos, Brandings, and Scarifications Policy.

1027.5 EXEMPTIONS

Members who seek cultural (e.g., culturally protected hairstyles), religious accommodations, 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.

Uniforms and Civilian Attire

1028.1 PURPOSE AND SCOPE

This policy provides guidelines for Banning Police Department-authorized uniforms and civilian attire regulations. It is established to ensure that uniformed members will be readily identifiable to the public through the proper use and wearing of [department/office] uniforms, and that the appearance of members who wear civilian attire reflects favorably on the [Department/Office].

This policy addresses the wearing and maintenance of [department/office] uniforms, accessories, insignia, patches and badge; the requirements for members who wear civilian attire; and the authorized use of optional equipment and accessories by members of the [Department/Office].

Other related topics are addressed in the [Department/Office]-Owned and Personal Property, Personal Appearance Standards, Visible Display of Identification, and Facial Coverings policies.

The Uniform and Equipment Specifications Manual is maintained and periodically updated by the Chief of Police or the authorized designee. The manual should be consulted regarding authorized equipment and uniform specifications.

1028.2 POLICY

The Banning Police Department will provide uniforms for all employees who are required to wear them in the manner, quantity, and frequency agreed upon in the respective employee group's memorandum of understanding. The [Department/Office] may provide other [department/office] members with uniforms at the direction of the Chief of Police.

All uniforms and equipment issued to [department/office] members shall be returned to the [Department/Office] upon termination or resignation.

1028.3 UNIFORMS

The Chief of Police or the authorized designee shall maintain and update uniform and equipment specifications, which should be consulted by all members as needed. Uniforms shall be worn as described therein and as specified in this policy.

The following shall apply to those assigned to wear [department/office]-issued uniforms:

- (a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean, and appear professionally pressed.
- (b) Officers in a non-uniformed assignment shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.
- (c) Uniforms shall be worn in compliance with any applicable [department/office] specifications.
- (d) Members shall wear only the uniform specified for their ranks and assignments (Penal Code § 13655).

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- (e) Civilian attire shall not be worn in combination with any distinguishable part of the uniform, except when authorized by the Chief of Police or authorized designee.
- (f) Uniforms are only to be worn while on-duty, for court, at official [department/office] functions or events, while in transit to or from work, or when authorized by the Chief of Police or the authorized designee.
 - 1. When the uniform is worn while in transit, a non-uniform outer garment shall be worn over the uniform shirt to avoid bringing attention to the member while they are off-duty.
- (g) Members are not to purchase or drink alcoholic beverages while wearing any part of the [department/office]-issued uniform, including the uniform pants.
- (h) All supervisors will perform periodic inspections of members under their commands to ensure conformance to this policy.

1028.3.1 IDENTIFICATION CARDS

The [Department/Office] issues each member an official department identification card bearing the member's name, full-face photograph, member identification number, member's signature, and signature of the Chief of Police or the official seal of the [Department/Office], and photo likeness. All members shall be in possession of their [department/office]-issued identification cards at all times while on-duty or in [department/office] facilities.

- (a) Whenever on duty or acting in an official capacity representing the [Department/Office], members shall display their [department/office]-issued identification in a courteous manner to any person upon request and as soon as practical.
- (b) Officers or other members working specialized assignments may be excused from the possession and display requirements when directed by their Division Commanders.

1028.3.2 ACCESSORIES

Members shall adhere to the following when wearing [department/office] uniforms:

- (a) Jewelry shall be in accordance with the specifications in Personal Appearance Standards Policy.

1028.3.3 INSIGNIA, PATCHES, AND BADGE

Only the following elements may be affixed to [department/office] uniforms unless an exception is authorized by the Chief of Police:

- (a) Shoulder patch - The authorized shoulder patch supplied by the [Department/Office] shall be machine stitched to the sleeves of all uniform shirts and jackets.
- (b) Badge - The [department/office]-issued badge, or an authorized sewn-on cloth replica, must be worn and visible at all times while in uniform.
- (c) Nameplate - The regulation nameplate, or an authorized sewn-on cloth nameplate, shall be worn at all times while in uniform (Penal Code § 830.10).
 - 1. 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.

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- (d) Rank insignia - The designated insignia indicating the member's rank must be worn at all times while in uniform.
- (e) Service insignia - The designated insignia indicating the member's length of service may be worn on long-sleeve shirts and jackets. The insignia shall be machine stitched to the left sleeve of the uniform.
- (f) Assignment insignias - Assignment insignias (e.g., [Crisis Response Unit] ([CRU]), Field Training Officer (FTO)) may be worn as designated by the Chief of Police.
- (g) American flag pin - An American flag pin may be worn, centered above the nameplate.
- (h) Award/commendation insignia - Insignia representing an award or commendation received under the Commendations and Awards Policy, or other recognition authorized by the Chief of Police, may be worn, centered above the nameplate. If more than one award is worn, or an American flag pin is worn, the insignia shall be equally spaced in one or two horizontal rows centered above the nameplate in a manner that provides a balanced appearance.

1028.3.4 MOURNING BAND

Uniformed members shall wear a black mourning band across the [department/office] badge whenever a law enforcement officer is killed in the line of duty or as directed by the Chief of Police. The following mourning periods will be observed:

- (a) Banning Police Department officer - 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 15) - From 0001 hours until 2359 hours.
- (e) As directed by the Chief of Police.

1028.4 UNIFORM CLASSES

1028.4.1 CLASS A UNIFORM

The Class A uniform consists of the following:

- (a) Dress hat (When Issued or Applicable)
- (b) Long-sleeve shirt
- (c) Tie
- (d) Tie tack or tie bar
- (e) Trousers
- (f) Black belt
 - 1. Belts shall be equipped as needed for the member's assignment.
- (g) Dark blue or black socks

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- (h) Black polished dress shoes
 1. Boots with pointed toes are not permitted.
- (i) White gloves(When Issued or Applicable)

1028.4.2 CLASS B UNIFORM

The Class B uniform consists of the following:

- (a) Long- or short-sleeve shirt with the collar open and no tie
 1. A white or black crew neck t-shirt must be worn under the uniform shirt.
 2. All shirt buttons must remain buttoned except for the top button at the neck.
 3. Long sleeves must be buttoned at the cuff.
- (b) Trousers
- (c) Black belt
 1. Belts shall be equipped as needed for the member's assignment.
- (d) Dark blue or black socks
- (e) Black polished dress shoes
 1. Approved black unpolished shoes may be worn.
 2. Boots with pointed toes are not permitted.
 3. Decorative stitching or adornment is not permitted.
- (f) Weather-appropriate items
 1. Hat
 2. Dark blue or black mock turtleneck may be worn under the long-sleeve uniform shirt
 3. Jacket
 4. Rain gear

1028.4.3 CLASS C UNIFORM

The primary Class C uniform will consist of the same equipment as the Class B uniform and the following clothing:

- (a) Black short or long sleeve polo style shirt (5.11 Performance Polo or First Tactical Performance Polo or Pro Performance Shirt) with the embroidered cloth Banning Police Department badge on the left side of the shirt. The officer's name will appear on the shirt in silver-gray block letter embroidery on the right side of the shirt, opposite the badge. Subdued department patches shall be worn on both shoulders. The polo-shirt will be tucked into the pants.
- (b) Black uniform trousers. (5.11 or First Tactical)
- (c) Shoes for the Class C uniform may be the same as described in the Class A and B uniform

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- (d) Approved unpolished police tactical style boots may also be worn
- (e) Boots with pointed toes are not permitted

The secondary Class C (BDU) uniform can be worn by officers when they have received prior authorization from the Chief of Police or on patrol during inclement weather conditions, as approved by the on-duty Watch Commander. When worn, the BDU Uniform shall be cleaned and pressed. When worn with an approved LBV during patrol or other public contract assignments the BDU shirt shall be tucked into the pants. The style will be 5.11 or First Tactical BDU uniforms in black.

The BDU Uniform Shirt requires subdued department patches on both shoulders and subdued cloth badge above the left pocket flap. A 1" cloth nametape, black in color, shall be sewn directly above the top of the right pocket flap with the officer's last name printed in capital letters (rank abbreviations may be added in front of last name) with silver-gray thread, consistent with the color of the subdued shoulder patch and badge.

As an additional Class C uniform option, officers may elect to wear the approved black long or short sleeve sun shirts with approved screen-printed graphics.

K-9 Officers are authorized to wear the BDU as their daily patrol uniform.

1028.4.4 SPECIALIZED UNIT UNIFORMS

The Chief of Police may authorize special uniforms to be worn by officers in specialized units such as Canine Team, ETU, Traffic, Crime Scene Investigations, Range Master, Gang Task Force, Bicycle Patrol, Motor Officers and other specialized assignments.

1028.4.5 NON-SWORN UNIFORMS

Non-Sworn personnel, consisting of Public Safety Dispatchers, Record Technicians, Evidence Technicians, Volunteers, Community Service Officer, and other personnel identified by the Chief of Police shall wear the following uniform:

- (a) Public Safety Dispatchers, Community Service Officers, Animal Control Officers, Records Technicians, Evidence Technicians will wear Charcoal Gray polo style shirt (5.11 Tactical Performance Short or Long Sleeve Polo (Charcoal) / First Tactical Performance Short or Long Sleeve Polo (Asphalt)) with the embroidered Banning Police Department Mountains Logo on the left side of the shirt with assignment under the logo in (Records Bureau / Evidence Bureau / Communications Bureau / Community Service Officer). The employees' last name and first initial will appear on the right side of the shirt, opposite the Mountains Logo, in the same block lettering as the assignment. The polo shirt will be tucked into the trousers or BDU pants.
- (b) Volunteers will wear a white polo style shirt with the embroidered cloth Banning Police Department Mountains Logo on the left side of the shirt. The word "Volunteer" will appear on the shirt in black block letter embroidery below the Mountain Logo. The Volunteers' last name and first initial will appear on the right side of the shirt, opposite the Mountain Logo, in the same black block lettering. The polo shirt will be tucked into the trousers or BDU pants.

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- (c) Black uniform trousers may be worn or substituted with black Mil-Spec BDU six pocket pants purchased by a vendor selected by the City. Trousers and pants must be worn with the black basket weave trouser belt with Velcro closure.
- (d) Black uniform pants may be worn with black polished shoes or polished boots.
- (e) Xenia Pacific, Inc. will be the approved vendor with the necessary artwork for the embroidery on these uniforms.

1028.4.6 CEREMONIAL DRESS UNIFORM

The Ceremonial Dress Uniform is authorized for wear at the direction of the Chief of Police. Ceremonial Dress Uniforms will be provided by the department for the Chief of Police, Captain, Lieutenants, Honor/Color Guard Members, and other specialized assignments, as determined by the Chief of Police. Police Officers, not listed, may purchase the Ceremonial Dress Uniform at their own expense and wear it at the direction of the Chief of Police.

Ceremonial Dress Jacket - Dark Navy Blue Flying Cross Brand, Single Breasted with peaked lapels, Dress Jacket with silver "P" buttons.

- Honor Guard - Dark Navy Blue Marlow White Brand, Single Breasted Dress Jacket with silver "P" buttons. USMC Style Collar. Only to be worn Honor/Color Guard Members during ceremonies.

Shirt - Standard white, long sleeve, collared with black tie.

Trousers - Class A Style, 100% wool.

Shoulder Patches - Subdued black and gray patch.

Badge Holder - The standard cloth badge holder will be removed and raised 1 3/4 inches to allow the department issued badge to fit properly on the jacket.

Silver Rank Stripe on Sleeves:

- Sergeant - one 1/2 inch silver stripe placed 1/4 inches apart 3 inches up and parallel to the bottom of both sleeves.
- Lieutenant - two 1/2 inch silver stripes placed 1/4 inches apart 3 inches up and parallel to the bottom of both sleeves.
- Captain - three 1/2 inch silver stripes placed 1/4 inches apart 3 inches up and parallel to the bottom of both sleeves.
- Chief - four 1/2 inch silver stripes placed 1/4 inches apart 3 inches up and parallel to the bottom of both sleeves.

Rank Insignia on Sleeves:

- Sergeants - Rank Insignia to match the shoulder patch, to be sewn on both sleeves of jacket.

Shoulder Boards - Black wool military style hard shoulder boards placed on each shoulder loop. (Attached with special loop attachment provided by vendor.)

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- Lieutenant - A silver bar affixed to the shoulder board placed 5/8 inch in from the end of the board nearest the sleeve. The spacing above and below the silver bar will be equal in distance.
- Captain - Two silver bars affixed to the shoulder board placed 5/8 inch in from the end of the board nearest the sleeve. This spacing above and below the silver bar will be equal in distance.
- Chief - Four silver stars affixed to the shoulder board placed equal spacing from the end of the shoulder board nearest the sleeve to the buttonhole.

Belt:

- Option 1: Silver U.S. Army Dress Blue Style with California State Seal on Buckle.
- Option 2: Black USMC Patent Leather Same Browne Belt & Shoulder Strap.

Shoes - Black USMC Style Patent Leather with Leather Soles, by Bates.

1028.5 CIVILIAN ATTIRE

There are assignments within the [Department/Office] that do not require the wearing of a uniform because recognition and authority are not essential to their functions. There are also assignments in which the wearing of civilian attire is necessary.

- (a) Civilian attire shall fit properly, be clean and free of stains, and not damaged or excessively worn.
- (b) Members assigned to administrative, investigative, and support positions shall wear business-appropriate clothing that is conservative in style.
- (c) Variations from this policy are allowed at the discretion of the Chief of Police or the authorized designee when the member's assignment or current task is not conducive to wearing such clothing.
- (d) No item of civilian attire that would adversely affect the reputation of the Banning Police Department or the morale of the members may be worn while on-duty.
- (e) The following items shall not be worn while on-duty or when representing the [Department/Office] in any official capacity:
 - 1. Clothing that reveals cleavage, the back, chest, stomach, or buttocks
 - 2. T-shirt alone or exposed undergarments
 - 3. Swimsuits, tank tops, tube tops, or halter tops
 - 4. Sweatshirts, sweatpants, or similar exercise clothing (Except Department Approved Sweatshirt)
 - 5. Spandex-type pants or transparent clothing
 - 6. Open-toed shoes
 - 7. Clothing, buttons, or pins displaying racial, sexual, discriminatory, gang-related, or obscene language

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1028.6 OPTIONAL EQUIPMENT

Any items that are allowed by the Banning Police Department but that have been identified as optional shall be purchased entirely at the expense of the member. No part of the purchase cost shall be offset by the [Department/Office].

Maintenance of optional items shall be the financial responsibility of the purchasing member (e.g., repairs due to normal wear and tear).

Replacement of items listed in this policy as optional shall be done as follows:

- (a) When the item is no longer functional because of normal wear and tear, the member bears the full cost of replacement.
- (b) When the item is no longer functional because of damage in the course of the member's duties, it shall be replaced in accordance with the [Department/Office]-Owned and Personal Property Policy.

1028.6.1 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 Banning Police Department. This identification is separate and distinct from the identification authorized by Penal Code § 25455 and referenced in the Retiree Concealed Firearms 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 Banning Police Department and will be revoked in the event of misuse or abuse (Penal Code § 538d).

1028.7 UNAUTHORIZED UNIFORMS, EQUIPMENT, AND ACCESSORIES

[Department/Office] members may not wear any uniform item, accessory, or attachment unless specifically authorized in the Uniform and Equipment Specifications Manual, by the Chief of Police, or the authorized designee.

[Department/Office] members may not use or carry any safety item, tool, or other piece of equipment unless specifically authorized in the Uniform and Equipment Specifications Manual, by the Chief of Police, or the authorized designee.

1028.8 AUTHORIZED ON-DUTY UNIFORMS BY ASSIGNMENT

1028.8.1 PATROL / SCHOOL RESOURCE OFFICER / HOMELESS LIASON OFFICER

- (a) Class A
- (b) Class B
- (c) Class C
- (d) Plain clothes/civilian attire at the approval of a Lieutenant for specific work details.

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1028.8.2 GANG TASK FORCE

- (a) Gang Task Force approved uniform.
- (b) Plain clothes/civilian attire at the approval of a GTF supervisor for specific work details.

1028.8.3 PROBATION ACCOUNTABILITY AND COMPLIANCE TEAM

- (a) PACT approved uniform.
- (b) Plain clothes/civilian attire at the approval of a PACT supervisor for specific work details.

1028.8.4 GENERAL DETECTIVES

- (a) Class A
- (b) Class B
- (c) Class C
- (d) Approved department polo with slacks
- (e) Suit and tie
- (f) Plain clothes/civilian attire at the approval of a Lieutenant for specific work details.

1028.8.5 ADMINISTRATION

- (a) Class A
- (b) Class B
- (c) Class C
- (d) Approved department polo with slacks
- (e) Suit and tie
- (f) Plain clothes/civilian attire at the approval of the Chief of Police for specific work details.

Police Cadets

1029.1 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.

1029.2 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.

1029.3 PROGRAM COORDINATOR

The Chief of Police will assign a Program Coordinator of his choice. 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.

1029.3.1 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.

1029.4 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.

1029.5 CADET UNIFORMS

Each cadet will be provided two uniforms meeting the specifications described in the Uniform Manual for non-sworn employees.

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Police Cadets

1029.6 ROTATION OF ASSIGNMENTS

Rotating job assignments should occur on a regular basis to enhance the career development for each cadet. Department needs and concerns will take precedence over individual considerations with the final decision resting with the Training Bureau Manager.

In general, senior cadets will be assigned to positions requiring more technical skill or responsibility, as well as serving to train cadets for new assignments or those newly hired.

1029.7 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.

1029.8 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.

Pregnancy Leave

1030.1 PURPOSE AND SCOPE

The purpose of this policy is to provide for a leave of absence for female employees due to pregnancy.

1030.2 POLICY

1030.2.1 LEAVE OF ABSENCE

- (a) Any female employee affected by pregnancy, childbirth, or related medical conditions may take a leave of absence for a reasonable period of time.
- (b) Such period of time not to exceed four (4) months.
- (c) The employee shall be entitled to utilize any accrued vacation leave during this period of time.

1030.2.2 DUTY ASSIGNMENT

- (a) Any pregnant female employee may request a temporary transfer to a less strenuous or hazardous position for the duration of the disability, with the advice of the employee's physician.
- (b) The transfer, if requested, shall be afforded the employee where such can be reasonably accommodated.
- (c) The Department is not required to create additional employment which it would not otherwise have created, nor shall the Department discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job.

Reference: Government Code § 12945.

Nepotism and Conflicting Relationships

1031.1 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.

1031.1.1 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.

1031.2 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.

1031.2.1 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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1031.2.2 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.

Temporary Modified-Duty Assignments

1032.1 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/Office] 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.

1032.2 POLICY

Subject to operational considerations, the Banning 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/Office] with a productive employee during the temporary period.

1032.3 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 Banning 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/Office]. 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.

1032.4 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/Office] and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Department of Human Resources 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.

1032.4.1 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.

1032.4.2 ACCOUNTABILITY

The employee's supervisor shall coordinate efforts to ensure proper time accountability and shall complete and process a change of shift/assignment form.

- (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 not work related shall be arranged during off-duty time or otherwise charged to the employee's sick leave.
- (b) Employees shall promptly submit a status report for each visit to their treating health care provider and shall immediately notify their 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 and complete and process a change of shift/assignment form. All training and certification necessary for return to duty shall be reviewed and updated as necessary.

1032.4.3 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.

1032.5 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/office] operations and the employee's medical appointments, as mutually agreed upon with the Division Commander.

1032.5.1 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.

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1032.5.2 SUPERVISOR RESPONSIBILITIES

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:

- (a) Periodically apprising the 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.

1032.6 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/Office] may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

1032.7 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/Office] 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).

1032.7.1 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.

1032.8 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

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1032.9 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

Speech, Expression, and Social Networking

1033.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with the use of social networking sites, and provides guidelines for the regulation and balancing of member speech and expression with the needs of the Banning Police Department.

This policy applies to all forms of communication including but not limited to digital media, print media, public or private speech, and use of all internet services, including the web, email, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, and other file-sharing sites.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech, or expression that is protected under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit a member from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or an employee group, about matters of public concern, such as misconduct or corruption.

Members are encouraged to consult with their supervisors regarding any questions arising from the application or potential application of this policy.

1033.2 POLICY

Members of public entities occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of the Banning Police Department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that members of this [department/office] be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the [Department/Office] will carefully balance the individual member's rights against the needs and interests of the [Department/Office] when exercising a reasonable degree of control over its members' speech and expression.

1033.3 SAFETY

Members should carefully consider the implications of their speech or any other form of expression when using the internet. Speech and expression that may negatively affect the safety of Banning Police Department members, such as posting personal information in a public forum or posting a photograph taken with a Global Positioning System (GPS)-enabled camera, can result in compromising a member's home address or family ties. Members should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any member, a member's family, or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow [department/office] member.

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- Otherwise disclosing where another officer can be located off-duty.

1033.4 PROHIBITED SPEECH, EXPRESSION, AND CONDUCT

To meet the safety, performance, and public-trust needs of the Banning Police Department, the following are prohibited unless the speech is otherwise protected (e.g., a member speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or an employee group, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation, or professionalism of the [Department/Office] or its members.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the [Department/Office] and tends to compromise or damage the mission, function, reputation, or professionalism of the [Department/Office] or its members. Examples may include:
 1. Statements that indicate disregard for the law or the state or U.S. Constitutions.
 2. Expression that demonstrates support for criminal activity.
 3. Participation in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the member as a witness. For example, posting to a website statements or expressions that glorify or endorse dishonesty, unlawful discrimination, or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the members of the [Department/Office] (e.g., a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing members by informing criminals of details that could facilitate an escape or attempted escape).
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the [Department/Office].
- (f) Use or disclosure, through whatever means, of any information, photograph, digital media, or other recording obtained or accessible as a result of employment or appointment with the [Department/Office] for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee.
- (g) Posting, transmitting, or disseminating any photographs, digital media, or audio recordings, likenesses, or images of [department/office] logos, emblems, uniforms, badges, patches, marked vehicles, equipment, or other material that specifically identifies the Banning Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.

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Members must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

1033.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While members are not restricted from engaging in the following activities as private citizens or as authorized members of recognized bargaining units or employee groups, members may not represent the Banning Police Department or identify themselves in any way that could be reasonably perceived as representing the [Department/Office] in order to do any of the following, unless specifically authorized by the Chief of Police (Government Code § 3206; Government Code § 3302):

- (a) Endorse, support, oppose, or contradict any political campaign or initiative.
- (b) Endorse, support, oppose, or contradict any social issue, cause, or religion.
- (c) Endorse, support, or oppose any product, service, company, or other commercial entity.
- (d) Appear in any commercial, social, or nonprofit publication; or any motion picture, film, video, or public broadcast; or on any website.

Additionally, when it can reasonably be construed that a member, acting in their individual capacity or through an outside group or organization, including as an authorized member of a recognized bargaining unit or an employee group, is affiliated with this [department/office], the member shall give a specific disclaiming statement that any such speech or expression is not representative of the Banning Police Department.

Members retain their rights to vote as they choose, to support candidates of their choice, and to express their opinions as private citizens, including as authorized members of recognized bargaining units or employee groups, on political subjects and candidates at all times while off-duty. However, members may not use their official authority or influence to interfere with or affect the result of elections or nominations for office. Members are also prohibited from directly or indirectly using their official authority to coerce, command, or advise another member to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes (5 USC § 1502).

1033.5 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts, or anything published or maintained through file-sharing software or any internet site, including social media, that is accessed, transmitted, received, or reviewed on any [department/office] technology system (see the Information Technology Use Policy for additional guidance).

The [Department/Office] should not require a member to disclose a personal user name or password for accessing personal social media or to open a personal social website.

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1033.6 CONSIDERATIONS

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police or the authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the [Department/Office] or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the [Department/Office].
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of their duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the [Department/Office].

Illness and Injury Prevention

1034.1 PURPOSE AND SCOPE

The purpose of this policy is to establish an ongoing and effective plan to reduce the incidence of illness and injury for members of the Banning Police Department, in accordance with the requirements of 8 CCR 3203.

This policy specifically applies to illness and injury that results in lost time or that requires medical treatment beyond first aid. Although this policy provides the essential guidelines for a plan that reduces illness and injury, it may be supplemented by procedures outside the Policy Manual.

This policy does not supersede, but supplements any related Citywide safety efforts.

1034.2 POLICY

The Banning Police Department is committed to providing a safe environment for its members and visitors and to minimizing the incidence of work-related illness and injuries. The [Department/Office] will establish and maintain an Illness and Injury Prevention program and will provide tools, training and safeguards designed to reduce the potential for accidents, illness and injuries. It is the intent of the [Department/Office] to comply with all laws and regulations related to occupational safety.

1034.3 ILLNESS AND INJURY PREVENTION PLAN

The Administration Division Commander is responsible for developing an illness and injury prevention plan that shall include:

- (a) Workplace safety and health training programs.
- (b) Regularly scheduled safety meetings.
- (c) Posted or distributed safety information.
- (d) A system for members to anonymously inform management about workplace hazards.
- (e) Establishment of a safety and health committee that will:
 - 1. Meet regularly.
 - 2. Prepare a written record of safety and health committee meetings.
 - 3. Review the results of periodic scheduled inspections.
 - 4. Review investigations of accidents and exposures.
 - 5. Make suggestions to command staff for the prevention of future incidents.
 - 6. Review investigations of alleged hazardous conditions.
 - 7. Submit recommendations to assist in the evaluation of member safety suggestions.
 - 8. Assess the effectiveness of efforts made by the [Department/Office] to meet relevant standards.

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- (f) Establishment of a process to ensure serious illnesses or injuries and death are reported as required by the Division of Occupational Safety and Health Administration (Cal/OSHA) (8 CCR 342).

1034.4 ADMINISTRATION DIVISION COMMANDER RESPONSIBILITIES

The responsibilities of the Administration Division Commander include but are not limited to:

- (a) Managing and implementing a plan to reduce the incidence of member illness and injury.
- (b) Ensuring that a system of communication is in place that facilitates a continuous flow of safety and health information between supervisors and members. This system shall include:
 - 1. New member orientation that includes a discussion of safety and health policies and procedures.
 - 2. Regular member review of the illness and injury prevention plan.
 - 3. Access to the illness and injury prevention plan to members or their representatives as set forth in 8 CCR 3203.
- (c) Ensuring that all safety and health policies and procedures are clearly communicated and understood by all members.
- (d) Taking reasonable steps to ensure that all members comply with safety rules in order to maintain a safe work environment. This includes but is not limited to:
 - 1. Informing members of the illness and injury prevention guidelines.
 - 2. Recognizing members who perform safe work practices.
 - 3. Ensuring that the member evaluation process includes member safety performance.
 - 4. Ensuring [department/office] compliance to meet standards regarding the following:
 - (a) Respiratory protection (8 CCR 5144)
 - (b) Bloodborne pathogens (8 CCR 5193)
 - (c) Aerosol transmissible diseases (8 CCR 5199)
 - (d) Heat illness (8 CCR 3395; 8 CCR 3396)
 - (e) Emergency Action Plan (8 CCR 3220)
 - (f) Fire Prevention Plan (8 CCR 3221)
 - (g) Hazards associated with wildfire smoke (8 CCR 5141.1)
- (e) Making available the Identified Hazards and Correction Record form to document inspections, unsafe conditions or work practices, and actions taken to correct unsafe conditions and work practices.
- (f) Making available the Investigation/Corrective Action Report to document individual incidents or accidents.

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- (g) Making available a form to document the safety and health training of each member. This form will include the member's name or other identifier, training dates, type of training, and training providers.
- (h) Conducting and documenting a regular review of the illness and injury prevention plan.

1034.5 SUPERVISOR RESPONSIBILITIES

Supervisor responsibilities include, but are not limited to:

- (a) Ensuring member compliance with illness and injury prevention guidelines and answering questions from members about this policy.
- (b) Training, counseling, instructing or making informal verbal admonishments any time safety performance is deficient. Supervisors may also initiate discipline when it is reasonable and appropriate under the Standards of Conduct Policy.
- (c) Establishing and maintaining communication with members on health and safety issues. This is essential for an injury-free, productive workplace.
- (d) Completing required forms and reports relating to illness and injury prevention; such forms and reports shall be submitted to the Administration Division Commander.
- (e) Notifying the Administration Division Commander when:
 - 1. New substances, processes, procedures or equipment that present potential new hazards are introduced into the work environment.
 - 2. New, previously unidentified hazards are recognized.
 - 3. Occupational illnesses and injuries occur.
 - 4. New and/or permanent or intermittent members are hired or reassigned to processes, operations or tasks for which a hazard evaluation has not been previously conducted.
 - 5. Workplace conditions warrant an inspection.

1034.6 HAZARDS

All members should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices or procedures in a timely manner. Members should make their reports to a supervisor (as a general rule, their own supervisors).

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner, based on the severity of the hazard. These hazards should be corrected when observed or discovered, when it is reasonable to do so. When a hazard exists that cannot be immediately abated without endangering members or property, supervisors should protect or remove all exposed members from the area or item, except those necessary to correct the existing condition.

Members who are necessary to correct the hazardous condition shall be provided with the necessary protection.

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All significant actions taken and dates they are completed shall be documented on an Identified Hazards and Correction Record form. This form should be forwarded to the Administration Division Commander via the chain of command.

The Administration Division Commander will take appropriate action to ensure the illness and injury prevention plan addresses potential hazards upon such notification.

1034.7 INSPECTIONS

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards and permit mitigation of those hazards. A hazard assessment checklist should be used for documentation and to ensure a thorough assessment of the work environment.

The Administration Division Commander shall ensure that the appropriate documentation is completed for each inspection.

1034.7.1 EQUIPMENT

Members are charged with daily vehicle inspections of their assigned vehicles and of their personal protective equipment (PPE) prior to working in the field. Members shall complete the Identified Hazards and Correction Record form if an unsafe condition cannot be immediately corrected. Members should forward this form to their supervisors.

1034.8 INVESTIGATIONS

Any member sustaining any work-related illness or injury, as well as any member who is involved in any accident or hazardous substance exposure while on-duty shall report such event as soon as practicable to a supervisor. Members observing or learning of a potentially hazardous condition are to promptly report the condition to their immediate supervisors.

A supervisor receiving such a report should personally investigate the incident or ensure that an investigation is conducted. Investigative procedures for workplace accidents and hazardous substance exposures should include:

- (a) A visit to the accident scene as soon as possible.
- (b) An interview of the injured member and witnesses.
- (c) An examination of the workplace for factors associated with the accident/exposure.
- (d) Determination of the cause of the accident/exposure.
- (e) Corrective action to prevent the accident/exposure from reoccurring.
- (f) Documentation of the findings and corrective actions taken.
- (g) Completion of an Investigation/Corrective Action Report form.
- (h) Completion of an Identified Hazards and Correction Record form.

Additionally, the supervisor should proceed with the steps to report an on-duty injury, as required under the Occupational Disease and Work-Related Injury Reporting Policy, in conjunction with this investigation to avoid duplication and ensure timely reporting.

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1034.9 TRAINING

The Administration Division Commander should work with the Training Sergeant to provide all members, including supervisors, with training on general and job-specific workplace safety and health practices. Training shall be provided:

- (a) To supervisors to familiarize them with the safety and health hazards to which members under their immediate direction and control may be exposed.
- (b) To all members with respect to hazards specific to each member's job assignment.
- (c) To all members given new job assignments for which training has not previously been provided.
- (d) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.
- (e) Whenever the [Department/Office] is made aware of a new or previously unrecognized hazard.

1034.9.1 TRAINING TOPICS

The Training Sergeant shall ensure that training includes:

- (a) Reporting unsafe conditions, work practices and injuries, and informing a supervisor when additional instruction is needed.
- (b) Use of appropriate clothing, including gloves and footwear.
- (c) Use of respiratory equipment.
- (d) Availability of toilet, hand-washing and drinking-water facilities.
- (e) Provisions for medical services and first aid.
- (f) Handling of bloodborne pathogens and other biological hazards.
- (g) Prevention of heat and cold stress.
- (h) Identification and handling of hazardous materials, including chemical hazards to which members could be exposed, and review of resources for identifying and mitigating hazards (e.g., hazard labels, Safety Data Sheets (SDS)).
- (i) Mitigation of physical hazards, such as heat and cold stress, noise, and ionizing and non-ionizing radiation.
- (j) Identification and mitigation of ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods.
- (k) Back exercises/stretchers and proper lifting techniques.
- (l) Avoidance of slips and falls.
- (m) Good housekeeping and fire prevention.
- (n) Other job-specific safety concerns.

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1034.10 RECORDS

Records and training documentation relating to illness and injury prevention will be maintained in accordance with the established records retention schedule.

Line-of-Duty Deaths

1037.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Banning Police Department in the event of the death of a member occurring in the line of duty and to direct the [Department/Office] in providing proper support for the member's survivors.

The Chief of Police may also apply some or all of this policy for a non-line-of-duty member death, or in situations where members are injured in the line of duty and the injuries are life-threatening.

1037.1.1 DEFINITIONS

Definitions related to this policy include:

Line-of-duty death - The death of an officer during the course of performing law enforcement-related functions while on- or off-duty, or a non-sworn member during the course of performing assigned duties.

For an officer, a line-of-duty death includes death that is the direct and proximate result of a personal injury sustained in the line of duty (34 USC § 10281).

Survivors - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin, or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

1037.2 POLICY

It is the policy of the Banning Police Department to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this [department/office] to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

1037.3 INITIAL ACTIONS BY COMMAND STAFF

- (a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the Watch Commander and Dispatch.
 - 1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Press Information Officer section of this policy).
- (b) The Watch Commander should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.
- (c) If the member has been transported to the hospital, the Watch Commander or the authorized designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.

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- (d) The Chief of Police or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve the temporary Hospital Liaison) and the [Department/Office] Liaison as soon as practicable (see the Notifying Survivors section and the [Department/Office] Liaison and Hospital Liaison subsections in this policy).

1037.4 NOTIFYING SURVIVORS

Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

The Chief of Police or the authorized designee should review the deceased member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The Chief of Police, Watch Commander, or the authorized designee should select at least two members to conduct notification of survivors, one of which may be the [Department/Office] chaplain.

Notifying members should:

- (a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.
- (b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity, and current location (e.g., small children at home, children in school).
- (c) Plan for concerns such as known health concerns of survivors or language barriers.
- (d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in [department/office] vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital. Notifying members should remain at the hospital while the survivors are present.
- (e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities, and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.
- (f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.
- (g) Offer to call other survivors, friends, or clergy to support the survivors and to avoid leaving survivors alone after notification.

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- (h) Assist the survivors with meeting child care or other immediate needs.
- (i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes, and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.
- (j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the [Department/Office] Liaison.
- (k) Provide their contact information to the survivors before departing.
- (l) Document the survivors' names and contact information, as well as the time and location of notification. This information should be forwarded to the [Department/Office] Liaison.
- (m) Inform the Chief of Police or the authorized designee once survivor notifications have been made so that other Banning Police Department members may be apprised that survivor notifications are complete.

1037.4.1 OUT-OF-AREA NOTIFICATIONS

The [Department/Office] Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

- (a) The [Department/Office] Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the [department/office] member that the survivors can call for more information following the notification by the assisting agency.
- (b) The [Department/Office] Liaison may assist in making transportation arrangements for the member's survivors, but will not obligate the [Department/Office] to pay travel expenses without the authorization of the Chief of Police.

1037.5 NOTIFYING [DEPARTMENT/OFFICE] MEMBERS

Supervisors or members designated by the Chief of Police are responsible for notifying [department/office] members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shifts. Members reporting for duty from their residences should be instructed to contact their supervisors as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

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Supervisors should direct members not to disclose any information outside the [Department/Office] regarding the deceased member or the incident.

1037.6 LIAISONS AND COORDINATORS

The Chief of Police or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including but not limited to:

- (a) [Department/Office] Liaison.
- (b) Hospital Liaison.
- (c) Survivor Support Liaison.
- (d) Wellness Support Liaison.
- (e) Funeral Liaison.
- (f) Mutual aid coordinator.
- (g) Benefits Liaison.
- (h) Finance coordinator.

Liaisons and coordinators will be directed by the [Department/Office] Liaison and should be given sufficient duty time to complete their assignments.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available [department/office] resources. The [Department/Office] Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed. The [Department/Office] should consider seeking assistance from surrounding law enforcement agencies to fill liaison and coordinator positions, as appropriate.

1037.6.1 [DEPARTMENT/OFFICE] LIAISON

The [Department/Office] Liaison should be a Division Commander or of sufficient rank to effectively coordinate [department/office] resources, and should serve as a facilitator between the deceased member's survivors and the [Department/Office]. The [Department/Office] Liaison reports directly to the Chief of Police. The [Department/Office] Liaison's responsibilities include but are not limited to:

- (a) Directing the other liaisons and coordinators in fulfilling survivors' needs and requests. Consideration should be given to organizing the effort using the National Incident Management System.
- (b) Establishing contact with survivors within 24 hours of the incident and providing them contact information.
- (c) Advising survivors of the other liaison and coordinator positions and their roles and responsibilities.
- (d) Identifying locations that will accommodate a law enforcement funeral and presenting the options to the appropriate survivors, who will select the location.
- (e) Coordinating all official law enforcement notifications and arrangements.

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- (f) Making necessary contacts for authorization to display flags at half-staff.
- (g) Reminding [department/office] members of appropriate information-sharing restrictions regarding the release of information that could undermine future legal proceedings.
- (h) Coordinating security checks of the member's residence as necessary and reasonable.
- (i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

1037.6.2 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

- (a) Establish a command post or incident command system, as appropriate, to facilitate management of the situation and its impact on hospital operations (e.g., influx of people, parking).
- (b) Arrange for appropriate and separate waiting areas for:
 - 1. The survivors and others whose presence is requested by the survivors.
 - 2. [Department/Office] members and friends of the deceased member.
 - 3. Media personnel.
- (c) Ensure, as practicable, that any suspects who are in the hospital and their families or friends are not in proximity to the member's survivors or Banning Police Department members (except for members who may be guarding a suspect).
- (d) Arrange for survivors to receive timely updates regarding the member before information is released to others.
- (e) Arrange for survivors to have private time with the member, if requested.
 - 1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
 - 2. The Hospital Liaison should accompany the survivors into the room, if requested.
- (f) Stay with survivors and provide them with other assistance as needed at the hospital.
- (g) If applicable, explain to the survivors why an autopsy may be needed.
- (h) Make arrangements for hospital bills to be directed to the [Department/Office], that the survivors are not asked to sign as guarantor of payment for any hospital treatment, and that the member's residence address, insurance information, and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting their actions at the conclusion of duties.

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1037.6.3 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the [Department/Office] Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term [department/office] contact for survivors.

The Survivor Support Liaison should be selected by the deceased member's Division Commander. The following should be considered when selecting the Survivor Support Liaison:

- The liaison should be an individual the survivors know and with whom they are comfortable working.
- The selection may be made from names recommended by the deceased member's supervisor and/or coworkers. The deceased member's partner or close friends may not be the best selections for this assignment because the emotional connection to the member or survivors may impair their ability to conduct adequate liaison duties.
- The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include but are not limited to:

- (a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes, and other locations, as appropriate.
- (b) Communicating with the [Department/Office] Liaison regarding appropriate security measures for the family residence, as needed.
- (c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.
- (d) Providing assistance with travel and lodging arrangements for out-of-town survivors.
- (e) Returning the deceased member's personal effects from the [Department/Office] and the hospital to the survivors. The following should be considered when returning the personal effects:
 - 1. Items should not be delivered to the survivors until they are ready to receive the items.
 - 2. Items not retained as evidence should be delivered in a clean, unmarked box.
 - 3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
 - 4. The return of some personal effects may be delayed due to ongoing investigations.
- (f) Assisting with the return of [department/office]-issued equipment that may be at the deceased member's residence.
 - 1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.
- (g) Working with the Wellness Support Liaison for survivors to have access to available counseling services.

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- (h) Coordinating with the [department/office]'s Press Information Officer ([PIO]) to brief the survivors on pending press releases related to the incident and to assist the survivors with media relations in accordance with their wishes (see the Press Information Officer section of this policy).
- (i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal, and administrative investigations.
- (j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.
- (k) Introducing survivors to prosecutors, victim's assistance personnel, and other involved personnel as appropriate.
- (l) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).
- (m) Inviting survivors to [department/office] activities, memorial services (e.g., as applicable, the Annual Candlelight Vigil at the National Law Enforcement Officers Memorial), or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The [Department/Office] recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

If needed, the Survivor Support Liaison should be issued a personal communication device (PCD) owned by the [Department/Office] to facilitate communications necessary to the assignment. The [department/office]-issued PCD shall be used in accordance with the Personal Communication Devices Policy.

1037.6.4 WELLNESS SUPPORT LIAISON

The Wellness Support Liaison should work with the [department/office] wellness coordinator or the authorized designee and other liaisons and coordinators to make wellness support and counseling services available to members and survivors who are impacted by a line-of-duty death. The responsibilities of the Wellness Support Liaison include but are not limited to:

- (a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for wellness support and counseling services, including:
 - 1. Members involved in the incident.
 - 2. Members who witnessed the incident.
 - 3. Members who worked closely with the deceased member but were not involved in the incident.
- (b) Making arrangements for members who were involved in or witnessed the incident to be relieved of [department/office] responsibilities until they can receive wellness support.

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- (c) Making wellness support and counseling resources (e.g., peer support, Critical Incident Stress Debriefing) available to members as soon as reasonably practicable following the line-of-duty death.
- (d) Coordinating with the Survivor Support Liaison to inform survivors of available wellness support and counseling services and assisting with arrangements as needed.
- (e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional wellness support or counseling services are needed.

1037.6.5 FUNERAL LIAISON

The Funeral Liaison should work with the [Department/Office] Liaison, Survivor Support Liaison, and survivors to coordinate funeral arrangements to the extent the survivors wish. The Funeral Liaison's responsibilities include but are not limited to:

- (a) Assisting survivors in working with the funeral director regarding funeral arrangements and briefing them on law enforcement funeral procedures.
- (b) Completing funeral notification to other law enforcement agencies.
- (c) Coordinating the funeral activities of the [Department/Office], including but not limited to the following:
 - 1. Honor Guard
 - (a) Casket watch
 - (b) Color guard
 - (c) Pallbearers
 - (d) Bell/rifle salute
 - 2. Bagpipers/bugler
 - 3. Uniform for burial
 - 4. Flag presentation
 - 5. Last radio call
- (d) Briefing the Chief of Police and command staff concerning funeral arrangements.
- (e) Assigning an officer to remain at the family home during the viewing and funeral.
- (f) Arranging for transportation of the survivors to and from the funeral home and interment site using [department/office] vehicles and drivers.
- (g) Addressing event-related logistical matters (e.g., parking, visitor overflow, public assembly areas).

1037.6.6 MUTUAL AID COORDINATOR

The mutual aid coordinator should work with the [Department/Office] Liaison and the Funeral Liaison to request and coordinate any assistance from outside law enforcement agencies needed for, but not limited to:

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- (a) Traffic control during the deceased member's funeral.
- (b) Area coverage so that as many Banning Police Department members can attend funeral services as possible.

The mutual aid coordinator should perform duties in accordance with the Outside Agency Assistance Policy.

Where practicable, the Chief of Police should appoint a mutual aid coordinator to identify external resources in advance of any need (e.g., regional honor guard teams, county- or state-wide resources).

1037.6.7 BENEFITS LIAISON

The Benefits Liaison should provide survivors with information concerning available benefits and will assist them in applying for benefits. Responsibilities of the Benefits Liaison include but are not limited to:

- (a) Confirming the filing of workers' compensation claims and related paperwork (see the Occupational Disease and Work-Related Injury Reporting Policy).
- (b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the following:
 - 1. Public Safety Officers' Benefits Program, including financial assistance available through the Public Safety Officers' Educational Assistance (PSOEA) Program, as applicable (34 USC § 10281 et seq.).
 - 2. Social Security Administration.
 - 3. Department of Veterans Affairs.
- (c) Researching and assisting survivors with application for state and local government survivor benefits, such as:
 - 1. Education benefits (Education Code § 68120).
 - 2. Health benefits (Labor Code § 4856).
 - 3. Workers' compensation death benefit (Labor Code § 4702).
- (d) Researching and assisting survivors with application for other survivor benefits such as:
 - 1. Private foundation survivor benefits programs.
 - 2. Survivor scholarship programs.
- (e) Researching and informing survivors of support programs sponsored by police associations and other organizations.
- (f) Documenting and informing survivors of inquiries and interest regarding public donations to the survivors.
 - 1. If requested, working with the finance coordinator to assist survivors with establishing a process for the receipt of public donations.

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- (g) Providing survivors with a summary of the nature and amount of benefits applied for, including the name of a contact person at each benefit office. Printed copies of the summary and benefit application documentation should be provided to affected survivors.
- (h) Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

1037.6.8 FINANCE COORDINATOR

The finance coordinator should work with the Chief of Police and the [Department/Office] Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:

- (a) Establishing methods for purchasing and monitoring costs related to the incident.
- (b) Providing information on finance-related issues, such as:
 - 1. Paying survivors' travel costs if authorized.
 - 2. Transportation costs for the deceased.
 - 3. Funeral and memorial costs.
 - 4. Related funding or accounting questions and issues.
- (c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member's survivors.
- (d) Providing accounting and cost information as needed.

1037.7 PRESS INFORMATION OFFICER

In the event of a line-of-duty death, the [department/office]'s [PIO] should be the [department/office]'s contact point for the media. As such, the [PIO] should coordinate with the [Department/Office] Liaison to:

- (a) Collect and maintain the most current incident information and determine what information should be released.
- (b) Instruct [department/office] members to direct any media inquiries to the [PIO].
- (c) Prepare necessary press releases.
 - 1. Coordinate with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
 - 2. Disseminate important public information, such as information on how the public can show support for the [department/office] and deceased member's survivors.
- (d) Arrange for community and media briefings by the Chief of Police or the authorized designee as appropriate.
- (e) Respond, or coordinate the response, to media inquiries.
- (f) If requested, assist the member's survivors with media inquiries.

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1. Brief the survivors on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.
- (g) Release information regarding memorial services and funeral arrangements to [department/office] members, other agencies, and the media as appropriate.
- (h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

The identity of deceased members should be withheld until the member's survivors have been notified. If the media have obtained identifying information for the deceased member prior to survivor notification, the [PIO] should request that the media withhold the information from release until proper notification can be made to survivors. The [PIO] should notify media when survivor notifications have been made.

1037.8 [DEPARTMENT/OFFICE] CHAPLAIN

The [Department/Office] chaplain may serve a significant role in line-of-duty deaths. Chaplain duties may include but are not limited to:

- Assisting with survivor notifications and assisting the survivors with counseling, emotional support, or other matters, as appropriate.
- Assisting liaisons and coordinators with their assignments, as appropriate.
- Assisting [department/office] members with counseling or emotional support, as requested and appropriate.

Further information on the potential roles and responsibilities of the chaplain is in the Chaplains Policy.

1037.9 INVESTIGATION OF THE INCIDENT

The Chief of Police should make necessary assignments to conduct thorough investigations of any line-of-duty death and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends, or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved [department/office] members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

1037.10 LINE-OF-DUTY DEATH OF A LAW ENFORCEMENT ANIMAL

The Chief of Police may authorize appropriate memorial and funeral services for law enforcement animals killed in the line of duty.

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1037.11 NON-LINE-OF-DUTY DEATH

The Chief of Police may authorize certain support services for the death of a member not occurring in the line of duty.

Wellness Program

1038.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance on establishing and maintaining a proactive wellness program for [department/office] members.

The wellness program is intended to be a holistic approach to a member's well-being and encompasses aspects such as physical fitness, mental health, and overall wellness.

Additional information on member wellness is provided in the:

- Chaplains Policy.
- Line-of-Duty Deaths Policy.
- Drug- and Alcohol-Free Workplace Policy.

1038.1.1 DEFINITIONS

Definitions related to this policy include:

Critical incident – An event or situation that may cause a strong emotional, cognitive, or physical reaction that has the potential to interfere with daily life.

Critical Incident Stress Debriefing (CISD) – A standardized approach using a discussion format to provide education, support, and emotional release opportunities for members involved in work-related critical incidents.

Peer support – Mental and emotional wellness support provided by peers trained to help members cope with critical incidents and certain personal or professional problems.

1038.2 POLICY

It is the policy of the Banning Police Department to prioritize member wellness to foster fitness for duty and support a healthy quality of life for [department/office] members. The [Department/Office] will maintain a wellness program that supports its members with proactive wellness resources, critical incident response, and follow-up support.

1038.3 WELLNESS COORDINATOR

The Chief of Police should appoint a trained wellness coordinator. The coordinator should report directly to the Chief of Police or the authorized designee and should collaborate with advisers (e.g., Department of Human Resources, legal counsel, licensed psychotherapist, qualified health professionals), as appropriate, to fulfill the responsibilities of the position, including but not limited to:

- (a) Identifying wellness support providers (e.g., licensed psychotherapists, external peer support providers, physical therapists, dietitians, physical fitness trainers holding accredited certifications).
 1. As appropriate, selected providers should be trained and experienced in providing mental wellness support and counseling to public safety personnel.

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2. When practicable, the [Department/Office] should not use the same licensed psychotherapist for both member wellness support and fitness for duty evaluations.
- (b) Developing management and operational procedures for [department/office] peer support members, such as:
 1. Peer support member selection and retention.
 2. Training and applicable certification requirements.
 3. Deployment.
 4. Managing potential conflicts between peer support members and those seeking service.
 5. Monitoring and mitigating peer support member emotional fatigue (i.e., compassion fatigue) associated with providing peer support.
 6. Using qualified peer support personnel from other public safety agencies or outside organizations for [department/office] peer support, as appropriate.
- (c) Verifying members have reasonable access to peer support or licensed psychotherapist support.
- (d) Establishing procedures for CISDs, including:
 1. Defining the types of incidents that may initiate debriefings.
 2. Steps for organizing debriefings.
- (e) Facilitating the delivery of wellness information, training, and support through various methods appropriate for the situation (e.g., phone hotlines, electronic applications).
- (f) Verifying a confidential, appropriate, and timely Employee Assistance Program (EAP) is available for members. This also includes:
 1. Obtaining a written description of the program services.
 2. Providing for the methods to obtain program services.
 3. Providing referrals to the EAP for appropriate diagnosis, treatment, and follow-up resources.
 4. Obtaining written procedures and guidelines for referrals to, or mandatory participation in, the program.
 5. Obtaining training for supervisors in their role and responsibilities, and identification of member behaviors that would indicate the existence of member concerns, problems, or issues that could impact member job performance.
- (g) Assisting members who have become disabled with application for federal government benefits such as those offered through the Public Safety Officers' Benefits Program (34 USC § 10281 et seq.).
 1. The coordinator should work with appropriate [department/office] liaisons to assist qualified members and survivors with benefits, wellness support, and

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counseling services, as applicable, when there has been a member death (see the Line-of-Duty Deaths Policy for additional guidance).

1038.4 [DEPARTMENT/OFFICE] PEER SUPPORT

1038.4.1 PEER SUPPORT MEMBER SELECTION CRITERIA

The selection of a [department/office] peer support member will be at the discretion of the coordinator. Selection should be based on the member's:

- Desire to be a peer support member.
- Experience or tenure.
- Demonstrated ability as a positive role model.
- Ability to communicate and interact effectively.
- Evaluation by supervisors and any current peer support members.

1038.4.2 PEER SUPPORT MEMBER RESPONSIBILITIES

The responsibilities of [department/office] peer support members include:

- (a) Providing pre- and post-critical incident support.
- (b) Presenting [department/office] members with periodic training on wellness topics, including but not limited to:
 - 1. Stress management.
 - 2. Suicide prevention.
 - 3. How to access support resources.
- (c) Providing referrals to licensed psychotherapists and other resources, where appropriate.
 - 1. Referrals should be made to [department/office]-designated resources in situations that are beyond the scope of the peer support member's training.

1038.4.3 PEER SUPPORT MEMBER TRAINING

A [department/office] peer support member should complete [department/office]-approved training prior to being assigned.

1038.5 CRITICAL INCIDENT STRESS DEBRIEFINGS

A Critical Incident Stress Debriefing should occur as soon as practicable following a critical incident. The coordinator is responsible for organizing the debriefing. Notes and recorded statements shall not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a critical incident.

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

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Attendance at the debriefing should only include peer support members and those directly involved in the incident.

1038.6 PEER SUPPORT COMMUNICATIONS

Although the [Department/Office] will honor the sensitivity of communications with peer support members, there is no legal privilege to such communications, unless authorized by law (e.g., peer support communications pursuant to a Law Enforcement Peer Support and Crisis Referral Service Program).

1038.7 PHYSICAL WELLNESS PROGRAM

The coordinator is responsible for establishing guidelines for an on-duty physical wellness program, including the following:

- (a) Voluntary participation by members
- (b) Allowable physical fitness activities
- (c) Permitted times and locations for physical fitness activities
- (d) Acceptable use of [department/office]-provided physical fitness facilities and equipment
- (e) Individual health screening and fitness assessment
- (f) Individual education (e.g., nutrition, sleep habits, proper exercise, injury prevention) and goal-setting
- (g) Standards for fitness incentive programs. The coordinator should collaborate with the appropriate entities (e.g., human resources, legal counsel) to verify that any standards are nondiscriminatory
- (h) Maintenance of physical wellness logs (e.g., attendance, goals, standards, progress)
- (i) Ongoing support and evaluation

1038.8 WELLNESS PROGRAM AUDIT

At least annually, the coordinator or the authorized designee should audit the effectiveness of the [department/office]'s wellness program and prepare a report summarizing the findings. The report shall not contain the names of members participating in the wellness program, and should include the following information:

- Data on the types of support services provided
- Wait times for support services
- Participant feedback, if available
- Program improvement recommendations
- Policy revision recommendations

The coordinator should present the completed audit to the Chief of Police for review and consideration of updates to improve program effectiveness.

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1038.9 TRAINING

The coordinator or the authorized designee should collaborate with the Training Sergeant to provide all members with regular training on topics related to member wellness, including but not limited to:

- The availability and range of [department/office] wellness support systems.
- Suicide prevention.
- Recognizing and managing mental distress, emotional fatigue, post-traumatic stress, and other possible reactions to trauma.
- Alcohol and substance disorder awareness.
- Countering sleep deprivation and physical fatigue.
- Anger management.
- Marriage and family wellness.
- Benefits of exercise and proper nutrition.
- Effective time and personal financial management skills.

Training materials, curriculum, and attendance records should be forwarded to the Training Sergeant as appropriate for inclusion in training records.

Tattoos, Brandings, and Scarifications

Effective Date:	01/11/2023
Revised Date:	
Issuing Authority:	

1039.1 POLICY

It is the policy of this agency that tattoos or brands that are detrimental to the good order are prohibited. Additionally, while on or off-duty in uniform or on-duty civilian attire, employees are prohibited from exhibiting tattoos, body art, or brands that are offensive or demeaning to persons of ordinary sensibilities. This policy may be rescinded or modified at any time by the Chief of Police.

1039.2 PURPOSE

Professionalism is the cornerstone of the Banning Police Department, and is a major contributor to our reputation for excellence. The Department has a responsibility to ensure all on-duty employees adhere to appropriate personal appearance standards to support this foundational value. A professional image encourages community confidence and promotes esprit de corps among the organization.

This policy establishes specific guidelines for the display of tattoos, brandings, and/or scarifications by members of this Department. It places accountability for compliance not only upon each employee, but also upon their supervisors and commanding officers.

1039.3 DEFINITIONS

Body modification: a deliberate altering of the human anatomy or human physical appearance.

Brand: a picture, design, or other marking that is burned into the skin or other areas of the body. Body markings are pictures, designs or other markings as a result of using means other than burning to permanently scar or mark the skin.

Extremist: extremist tattoos or brands are those affiliated with, depicting, or symbolizing extremist philosophies, organizations, or activities. Extremist philosophies, organizations, and activities are those which advocate hatred or intolerance based on race, ethnicity, national origin, gender, gender identity, sexual orientation, religion, economic status, age, or disability; advocate, create, or engage in illegal discrimination based on race, ethnicity, national origin, gender, sexual orientation, gender identity, religion, economic status, age or disability; or advocate violence or other unlawful means of depriving individuals rights infer the U.S. Constitution, and Federal or State law.

Indecent: indecent tattoos or brands are those that depict nudity or are offensive to modesty, decency, propriety, or professionalism.

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Tattoos, Brandings, and Scarifications

Political: relating to the symbols, causes, ideas or strategies of a particular party or group in politics, including special interest groups.

Racist: racist tattoos or brands are those that advocate a philosophy that degrades or demeans a person or group of people based on race, ethnicity, or national origin

Sexist: sexist tattoos or brands are those that advocate a philosophy that degrades or demeans a person or group of people based on gender.

Tattoo/body art: a picture, design, or making made on the skin or other areas of the body by staining it with an indelible dye, or by any other methods including pictures, designs, or markings only detectable or visible under certain conditions (as in an ultraviolet light or invisible ink tattoo). The term tattoo and body art are interchangeable.

1039.4 APPLICATION

1039.4.1 PROHIBITED MARKINGS

The following tattoos, brands, or scarifications are prohibited, regardless of visibility:

- (a) Extremist
- (b) Indecent
- (c) Sexist
- (d) Racist

Any tattoo/body art or brand that implies a negative bias toward any group will cause the employee to be subject to disciplinary action, up to and including termination.

No group, station, shift, assignment, team, or other collection of employees, may display the same tattoo or marking if the theme message, content, or mere existence as a group tattoo or marking, is viewed by the Chief of Police or his designee to be in conflict with our mission, professional image, or otherwise in violation with any other part of this policy. Employees are encouraged to consider the impact that such group tattoos may have upon their image, testimony in official proceedings, and upon our role as an unbiased law enforcement organization.

1039.4.2 PROHIBITED LOCATIONS

All employees are prohibited from having tattoos on any part of the hands, neck, face, head, eyelids, mouth, and ears with the following exceptions:

- (a) Tattoo of a wedding band on the ring finger
- (b) Permanent facial make-up on the eyebrows, eyeliner, and lips that is conservative
- (c) Any employees who were hired in a lateral position from another agency with tattoos already on prohibited locations that were approved by the Chief of Police prior to hiring.

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1039.4.3 CONCEALMENT

The Department reserves the right to require employees to conceal their tattoos/body art or brands if deemed necessary to comport with evolving standards. This policy and its exceptions do not grant permanent approval to display any tattoos/body art or brand subsequently deemed unacceptable for display, and employees may be required to cover them at any time.

The following tattoos/body art and brands must be concealed in accordance with this policy while in uniform or on duty in civilian attire:

- (a) Symbols or markings likely to elicit a strong negative reaction in the workplace or public or that are inconsistent with the Department's values or community relations objectives including, but not limited to, symbols or markings that promote or are associated with violence or weaponry
- (b) Anything contrary to the purpose of law enforcement including, but not limited to, depictions symbolizing or indicative of alcohol or narcotics, illegal or gang related activity, or symbols suggestive of activity that undermines the purpose of law enforcement
- (c) Illustrations, references, symbols, acronyms or the like that denigrate the United States, State of California, or the Department
- (d) Symbols or markings that represent political beliefs, political parties, political slogans, or that cast any political group in a negative light

Concealment for areas not naturally covered by the uniform or plainclothes attire shall be accomplished with flesh-color matched bandages or wraps.

1039.4.4 PIERCINGS AND MODIFICATIONS

Female sworn and uniformed civilian employees may wear one stud earring no larger than 5mm or 3/16 of an inch in diameter in the lower lobe of each ear; however regardless of gender, body piercing of the face, head, neck, nose, mouth, and hands is prohibited. For all employees, any visible piercing or alteration to any areas of the body that is distracting, inconsistent with a professional appearance, or which noticeably distorts normal anatomical features (i.e., that is not a reasonable elective cosmetic surgery performed by a licensed physician or medically required) is prohibited. Such prohibited body alterations include, but are not limited to:

- (a) Tongue splitting or bifurcation
- (b) Complete or transdermal implantation of any objects other than hair replacement or other reasonable elective cosmetic surgery performed by a licensed physician
- (c) Abnormal shaping of the ears, eyes, or nose
- (d) Outlandish or unnatural contact lens colors or color variations that detract from a professional appearance
- (e) Gauging or gradually increasing the radius of a surgically induced opening in the flesh in areas such as the earlobes or lips
- (f) Abnormal filling of the teeth

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(g)Dental jewelry or unnatural appearing covers such as "grills"

(h)Extraocular implants

Procedures medically necessary because of illness, deformity, or injury (and performed by a licensed physician) shall not be considered body modifications for the purpose of this policy.

1039.4.5 AUTHORIZATION FOR VISIBLE TATTOOS/BODY ART

(a) Current employees are encouraged to submit designs for new tattoos to their Chief of Police when there is doubt about compliance with this policy

(b) Prospective employees shall include information on all tattoos/body art in their application packet to ensure none are prohibited by this policy.

(c) The Chief of Police or his designee shall make the final determination as to whether tattoo/body art conforms to this policy.

1039.5 SPECIALIZED ASSIGNMENTS AND VISIBLE TATTOOS/BODY ART

(a) Employees working the following assignments are prohibited from displaying tattoos or body art:

- (a) School Resource Officers
- (b) Basic and Modular Academy Staff
- (c) Basic and Modular Academy Recruits
- (d) Media Information Bureau
- (e) Uniformed Courtroom Assignments

(b)Department personnel appearing in court, in or out of uniform, shall not display any tattoos or body art during their presence in the courtroom or during testimony.

(c)The Chief of Police or his designee may amend what specialized assignments are prohibited under this section.

1039.6 EXEMPTIONS

Members who seek cultural (e.g., culturally protected hairstyles), religious accommodations, 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.

Visible Display of Identification

1040.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for all officers to be readily identifiable to the public by the visible display of the [department/office] name and individual identifying information when performing enforcement duties, except in described limited specific circumstances (Government Code § 7288).

This policy also serves as a declaration that the Banning Police Department is committed to transparency, accountability, and public trust.

1040.1.1 DEFINITIONS

Definitions related to this policy include:

Enforcement duties - Active and planned operations involving the arrest or detention of an individual, or deployment for crowd control purposes.

Visibly display identification - To wear externally on the uniform in a size and location such as to be reasonably visible to a member of the public with whom the officer interacts.

1040.2 POLICY

It is the policy of the Banning Police Department that all officers visibly display identification when performing enforcement duties except in circumstances set forth in this policy.

1040.3 VISIBLE DISPLAY OF IDENTIFICATION

Whenever performing enforcement duties, every officer shall visibly display identification, including the name of this [department/office] and either the officer's name or badge number, or both name and badge number.

This requirement shall not apply under the following conditions:

- (a) When officers are engaged in active undercover operations or investigative activities
- (b) When officers are wearing personal protective equipment that prevents display
- (c) When exigent circumstances exist involving an imminent danger to persons or property, the escape of a perpetrator, or the destruction of evidence, including if the officer is responding to those circumstances while off-duty
- (d) When there is a specific, articulable, and particularized reason to believe that identification would pose a significant danger to the physical safety of the officer

1040.4 POSTING OF POLICY

The Chief of Police or the authorized designee shall make this policy publicly available on the [department/office] website.

A written challenge regarding this policy shall be forwarded to the Chief of Police or the authorized designee, who shall then have 90 days to address or correct any alleged deficiencies. Court

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proceedings may not be initiated by the challenging party until this 90-day period has been completed.

Facial Coverings

1041.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for all sworn personnel regarding the restriction of facial coverings when performing their duties except in limited specific circumstances (Government Code § 7289).

This policy also serves as a declaration that the Banning Police Department is committed to transparency, accountability, and public trust. Facial coverings are restricted as set forth in this policy.

1041.1.1 DEFINITIONS

Definitions related to this policy include:

Facial covering - Any opaque mask, garment, helmet, headgear, or other item that conceals or obscures the facial identity of an individual, including but not limited to a balaclava, tactical mask, gaiter, ski mask, and any similar type of facial covering or face-shielding item.

Facial covering does not include:

- A translucent face shield or clear mask that does not conceal the wearer's facial identity and is used in compliance with this policy.
- A N95 medical mask or surgical mask to protect against transmission of disease or infection or any other mask, helmet, or device, including but not limited to air-purifying respirators, full or half masks, or self-contained breathing apparatus necessary to protect against exposure to any toxin, gas, smoke, inclement weather, or any other hazardous or harmful environmental condition.
- A mask, helmet, or device, including but not limited to a self-contained breathing apparatus, necessary for underwater use.
- A motorcycle helmet when worn by an officer utilizing a motorcycle or other vehicle that requires a helmet for safe operations while in the performance of their duties.
- Eyewear necessary to protect from the use of retinal weapons, including but not limited to lasers.

1041.2 POLICY

It is the policy of the Banning Police Department that facial coverings shall not be worn by officers in the performance of their duties except as set forth in this policy.

Generalized and undifferentiated fear and apprehension about officer safety shall not be sufficient to justify the use of facial coverings.

1041.3 FACIAL COVERINGS

Facial coverings shall not be worn by officers when performing their duties except under the following conditions:

- (a) Active undercover operations or assignments authorized by a supervisor or court order

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- (b) Tactical operations where protective gear is required for physical safety
- (c) Applicable law governing occupational health and safety authorizes such use (e.g., N95 masks against transmission of disease or infection, self-contained breathing apparatus against exposure to hazardous conditions)
- (d) Protection of identity during a prosecution proceeding
- (e) Applicable law governing reasonable accommodations authorizes such use

Facial coverings shall only be used when no other reasonable alternative exists, and with the approval of a supervisor. The supervisor shall document the necessity of facial coverings in the appropriate report.

A supervisor shall not knowingly allow an officer to violate state law or [department/office] policy limiting the use of a facial covering.

1041.4 POSTING OF POLICY

The Chief of Police or the authorized designee shall make this policy publicly available on the [department/office] website.

A written challenge regarding this policy shall be forwarded to the Chief of Police or the authorized designee, who shall then have 90 days to address or correct any alleged deficiencies. Court proceedings may not be initiated by the challenging party until this 90-day period has been completed.

Time Off Requests

1042.1 PURPOSE AND SCOPE

The purpose of this policy is to establish consistent procedures for requesting and approving time off for vacation bank, holiday bank, and compensatory time banks while ensuring adequate staffing and supervisory coverage for the safe and efficient operation of the Banning Police Department.

This policy applies to all sworn and civilian personnel of the Banning Police Department, unless otherwise specifically outlined in a collective bargaining agreement or employee contract.

1042.2 POLICY

It is the policy of the Banning Police Department to balance employees' use of approved leave with the operational requirement to maintain adequate staffing levels. Except under extraordinary circumstances or in situations described in 1042.5, no more than one non-supervisory employee may be on scheduled leave at any given time per shift, and only one supervisor may be approved for leave when supervisory staffing is limited. The department will make every reasonable effort to accommodate employee requests while ensuring uninterrupted delivery of police services.

1042.3 TYPES OF LEAVE COVERED

The following types of leave are governed by this policy:

1. Vacation Leave (Vacation Bank)
2. Holiday Leave (Holiday Bank)
3. Compensatory Time Off (Comp Time Bank)

Sick leave, injured on-duty leave, emergency leave (e.g., bereavement leave), and legally protected leave (e.g., FMLA, military leave) are not subject to the one-employee limitation.

1042.4 TIME OFF REQUEST PROCEDURES

- A. Submission of Requests:
 1. Submission of requests to the employee's immediate supervisor should be done as far in advance as possible, but at minimum shall be done in accordance with BPOA MOU article 20.3 (Vacation Leave) and 20.8 (Holiday Leave).
 2. Requests will be reviewed by the employee's immediate supervisor to either be approved or denied.
- B. Approval Criteria - Approval decisions will be based on:
 1. Staffing levels for the requested dates.
 2. Operational needs, including special events, training, emergencies, and anticipated workload.
 3. Order of request submission ("first come, first served"), unless a collective bargaining agreement provides otherwise.

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Time Off Requests

- (a) Date of submission trumps seniority for time-off requests submitted on different days.
 - (b) If time-off requests are submitted the same day, then time-off goes by seniority.
4. The employee has adequate leave balance availability in the employee's respective leave bank.

1042.5 LIMITATIONS ON TIME OFF APPROVALS

A. General Staffing Limitation:

1. To Maintain operational readiness, only one non-supervisory employee per patrol watch may be approved for scheduled leave at any given time.
2. A second non-supervisory employee may be approved if the employee has coverage arranged for the requested time off.
3. Exceptions may be granted only by the Chief of Police or designee for documented special circumstances.

B. Supervisory Staffing Requirement:

1. When staffing levels indicate a shortage of supervisory personnel, no more than one supervisor may be on scheduled leave at the same time for either days or nights (example: both day shift or both night shift supervisors may not request the same days off).
2. Supervisory leave requests may be denied or rescheduled to ensure adequate span of control, field oversight, and administrative continuity.
3. If multiple supervisors request leave for overlapping dates, priority will be granted based on the following:
 - (a) Date of submission trumps seniority for time-off requests submitted on different days.
 - (b) If time-off requests are submitted the same day, then time-off goes by seniority.

1042.6 CANCELLATION OR MODIFICATION OF APPROVED LEAVE

1. Approved leave may be rescinded only in cases of operational necessity, such as emergencies, significant personnel shortages, or critical incidents.
2. If leave must be cancelled, the department will notify the employee as soon as practicable and will attempt to reschedule the time off.

1042.7 MEMBER RESPONSIBILITIES

1042.7.1 EMPLOYEE RESPONSIBILITY

- Review schedule for already approved time-off on desired dates.
- Submit timely and accurate leave requests.

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Time Off Requests

- Monitor approval status and avoid scheduling personal commitments until leave is approved.
- Ensure adequate leave balances are available.

1042.7.2 SUPERVISOR RESPONSIBILITY

- Review schedule and staffing projections before approving endorsing leave requests.
- Ensure compliance with the one-employee and supervisory restrictions.
- Communicate promptly with employees regarding approval or denial.
- Attempt to resolve competing leave requests.

1042.7.3 COMMAND STAFF RESPONSIBILITY

- Resolve conflicts between competing leave requests when unable to be resolved by supervisors.
- Approve exceptions when appropriate.
- Ensure this policy is consistently applied throughout the department.

1042.8 RECORD KEEPING

All time-off approvals, denials, and cancellations shall be documented in the department's scheduling system and retained according to the department's records retention policy.

1042.9 REVIEW AND REVISION

This policy will be reviewed annually by the Command Staff to ensure continued effectiveness and compliance with operational needs, collective bargaining agreements, and applicable laws.

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Attachments

2017 WRAP Directive.pdf



Banning Police Department

125 E. Ramsey Street, Banning, CA 92220 (951) 922-3170

“WRAP” Directive

To: BDP Personnel

Date: May 12, 2017

From: Alejandro Diaz, Chief of Police

Reference: Directive for the “WRAP” Restraining Device.

The **Banning Police Department** has approved the use of the Wrap within the guidelines provided.

PURPOSE:

The Wrap provides a safe and quick method of controlling and immobilizing a violent or potentially violent/combatative subject who has been detained or taken into custody. This directive is in conjunction with current Banning Police Department Policy Section 306 – Handcuffing and Restraints and is intended to notify Department personnel of the procedural guidelines for the Wraps use.

CRITERIA FOR USE:

The Wrap can be used prior to or after a violent or potentially violent/combatative subject is controlled using approved departmental methods. Like any restraint device, do not assume the Wrap is escape proof. Once applied, **THE SUBJECT SHOULD NOT BE LEFT UNMONITORED.**

The Wrap should be considered for use under the following situations:

- A. Whenever you anticipate possible violent/combatative behavior.
- B. To immobilize a violent/combatative subject.
- C. To limit violent/combatative subjects from causing injury to themselves or others.
- D. To prevent violent/combatative subjects from causing property damage by kicking.
- E. To restrain subjects after a chemical spray or stunning device is used.
- F. When conventional methods of restraint are not effective.
- G. In transportation of violent/combatative subjects.

REPORTING USE OF THE WRAP:

- A. Any officer, who applies The Wrap for any reason, other than at an approved training exercise, will notify an on-duty supervisor.
- B. The incident will be appropriately documented according to department policy.

TRAINING:

Only qualified personnel who have successfully completed the Department’s training in the use of the Wrap should use this restraining device.

2022-Directive-Naloxone.pdf



Banning Police Department

125 E. Ramsey Street, Banning, CA 92220 (951) 922-3170

Department Directive

To: All BPD Personnel

Date: December 20, 2022

From: Matthew Hamner, Chief of Police 

Reference: Department Issued Naloxone (Narcan) Administration

Purpose:

This directive applies to the administration of department issued Intranasal Naloxone (Narcan). Those Banning Police Department members who have successfully completed the department approved training are authorized to administer the department issued Naloxone to members of the department and members of the public, who are experiencing a medical emergency related to a known or suspected opioid overdose. Please refer to Banning Police Department Policy regarding all other responsibilities related to Naloxone (Narcan).

References:

- Banning Police Department Policy 431 – Medical Aid and Response
 - BPD Policy 431.9 – 431.9.5 Opioid Overdose Medication
- Civil Code § 1714.22
- Business and Professions Code § 4119.9

AB481 Specialized Police Equipment (Military Equipment).pdf

AB-481 REPORT

Unmanned Aircraft

- 2- DJI MAVIC MINI \$400.00 @ (Lifespan 3-5 Years)
Miniature UAS that weighs approximately 249 grams and can record video and audio with approximately 30 minutes of flight time.
- 1- DJI MAVIC ENTERPRISE DUALS \$8500.00 (Lifespan 3-5 Years)
UAS that has a color and inferred camera as well as audible speaker and light. Capable of video recording and weighs 899 grams, approx. 30 minutes of flight time.

Robots

- ARA- Applied Research Associates' Pointman tactical robot
- Cost 23K-35K (Non-working)
- Plan to surplus this item out of our inventory.

Armored vehicle

- Donated (Retired Bank Armored Car)
- Market value \$15k
- Training- 4 hour practical driver training. Also DMV air brake Endorsement provided by DMV

Mobil Incident Command

- 2006
- Acquisition cost approx. 55K
- Lifespan: 20 years. Unit needs computer upgrade and radio upgrades to be functional

37mm and 40mm Launches and rounds

- Model 201 Z Federal Laboratories 37mm launcher-Lifespan 20 years
- Cost: \$975.00
- 8- 37mm sponge rounds-Lifespan 3 years
- Cost: 8.00 @
- Model 1425 Defense Technology 40mm launcher unit cost: \$1265.00 @- Lifespan 20 years
- 60- model 40mm rounds: \$6.00 @ -Lifespan 3 years

Shoulder mounted firearms:

- 17- Benelli M1 Super Black Super 90 patrol shotguns
Cost: \$900.00 @
- 10 Benelli M2 patrol shotguns
Cost: 950.00 @
- 5- Bushmaster AR-15 Patrol Rifles
Cost: \$600.00@
- 15- Colt AR-15 Patrol Rifles
Cost: \$900.00 @
- 6- Colt M-16 Rifles from 10-33 Program
Cost: \$0.00, Value \$1000.00 @
- 4- Colt M4 SWAT Rifles from 10-33 Program
Cost: \$1500.00 @
- 13 Remington model 870 Less lethal shotguns
Cost: \$600.00 @
- 15 H&K MP-5 SMG 9MM SWAT RIFLES
\$2200.00 @
- Mossberg A590 Less lethal shotguns
Cost: \$600.00 @
- 7- M14 Rifles from 10-33 Program
Cost: \$0.00, Value \$1600.00 @
- 1- Remington 700 Sniper rifles in .223 w/optics
Cost: \$1900.00
- 1- Remington 870 Sniper rifles in .308 w/optic
Cost: \$1900.00
- Lifespan on Shoulder Mounted Firearms is dependent on rounds fired and maintenance.

PepperBall launchers (Lifespan 20 year) (PepperBall Rounds lifespan-3 years)

- 8- PepperBall model FTC launchers w/ bags
- Cost: 600.00 @
- 1875 "Live" PepperBall rounds
- Cost: .66@ = \$1237.50
- 1875 "Live X" PepperBall rounds
- Cost: .66@ = \$1845.00

All Weapon Systems Training is done per California POST standards and by Certified Instructors.

DUTY AMMUNITION

1. Winchester Ranger, 9mm Luger +P, model RA9SF, 100 Gr. Frangible SF.
Quantity: 500 Cost: \$21.00 per 50 = \$210.00
2. Winchester Ranger, 9mm Luger, Model RA9T, 147 Gr. T-Series duty ammunition
Quantity: 7000 Cost: \$342.00 per thousand = \$2394.00
3. Winchester Super-X, 10MM, model XM10MM MSTHP, 175 Gr. SILVERTIP duty ammo.
Quantity: 80 Cost: .82 cents per round = \$65.60
4. Winchester Ranger, .40 Smith & Wesson, model RA40T, 180 Gr. T series ammunition
Quantity: 3500 Cost: \$290.00 per thousand = \$1015.00
5. Winchester Ranger: .357 SIG, model RA357SIGT, 125 Gr. SXT duty ammo
Quantity: 2500 Cost: \$690.00 per thousand = \$1725.00
6. Winchester Ranger, 45 Automatic +P, model RA45TP, 230 Gr. T-Series Duty ammunition
Quantity: 2500 Cost: \$342.00 per thousand = \$855.00
7. Winchester Ranger, .556 , model RA223R, 55 Gr. Pointed soft point duty ammunition
Quantity: 7700 Cost: \$310.00 per thousand = \$2387.00
8. Winchester Ranger, 5.56MM, model RA556JF, 45 Gr. Jacketed Frangible non-toxic
Quantity: 200 Cost: .74 each = \$148.00
9. Winchester Super-X, 12-gauge rifled slugs, model X12RS15, 2 gauge, 2 3/4 inch 1 oz. slugs
Quantity: 970 Cost: .82 each = \$2298.00
10. Winchester Super-X, model XB1200, 12-gauge Buckshot loads, 12 gauge 2 3/4 inch 00 Buckshot (9 pellets).
Quantity: 2370 Cost: .98 each = 2298.00

PRACTICE AMMUNITION

1. Winchester Super-X: .38 Special, Model 381S1P duty ammo, 158 grain Round nose practice ammo
Quantity: 500 Cost: \$220.00 PER 500
2. Winchester- 9MM, model USA 9mmUP, 115 Gr. FMJ
Quantity: 8000 Cost: \$240.00 per thousand = \$1920.00
3. Federal 9mm, model AE9DP, 115 Gr FMJ
Quantity: 6000 Cost: \$360.00 per thousand = \$2160.00
4. Winchester .40 S&W, model Q4238, 180 Gr. FMJ

- Quantity: 7350 Cost: \$407.00 per thousand = \$2991.00
5. Winchester 45 Automatic, Model Q4170. 230 Gr. FMJ
Quantity: 7250 Cost: \$214.00 per thousand = \$3101.00
6. Federal 5.56 mm, Model XM196BK, 5.56 x 45, 55 Gr. MCBT (ball ammunition).
Quantity: 2000 Cost: \$219.00 per thousand = \$438.00
7. Winchester 5.56mm, model USA3162W, 62 Gr. 5.56mm open tip (green tip ammunition).
Quantity: 14,400 Cost: \$500.00 per thousand = \$7200.00
8. Remington .223, model L223R3, 55 Gr. FMJ
Quantity: 2400 Cost: \$340.00 per thousand = \$816.00
9. Winchester .223, model USA223RK1, 55 Gr. FMJ
Quantity: 5000 Cost: \$464.00 per thousand = \$2320.00
10. Winchester 7.62 x 51, 147 Gr. 7.62 x 51 FMJ
Quantity: 1360 Cost: \$130.00 per 500 = \$354.00

2022 Directive-Found Property.pdf



Banning Police Department

125 E. Ramsey Street, Banning, CA 92220 (951) 922-3170

Department Directive

To: All BPD Personnel

Date: December 20, 2022

From: Matthew Hamner, Chief of Police 

Reference: Found Property Documentation Directive

Purpose:

This directive applies to the collection, booking, and documentation of found property and will replace the previous directive from November 28, 2017.

As a result of the audit conducted in the property room a change to the current process for the booking of found property is needed. All items booked into evidence, including found property, will require a case number for proper documentation and tracking of items that are either destroyed or sold at auction. For those items that are collected related to non-criminal activity a report shall be generated to book the items. The report can be labeled as Department Information if appropriate and the no narrative box can be checked, so long as sufficient notes are added to the incident to document how the Banning Police Department came in possession of the item(s). Any names associated with the property, such as finders or possible owners (example: names on identification inside a wallet), need to be added into the people section of the report. This will assist evidence with returning found or lost property that has an owner.

As before and per any applicable department policies, any additional forms such as: property receipts, weapons reports, etc. shall still be completed and attached to the related reports. All items will still be booked in appropriate packaging per the current standards of packaging evidence. For example, all drugs shall be booked in a drug envelope, guns in gun boxes, fixed blade knives in a knife box, etc.

**SENIOR AND DISABILITY
VICTIMIZATION CHECKLIST.pdf**

BANNING POLICE DEPARTMENT
SENIOR AND DISABILITY VICTIMIZATION CHECKLIST

Patrol Response:

Responding peace officers play a crucial role in creating successful outcomes for Elder and dependent adult victims. The Banning Police Department patrol officers will strive to do the following when feasible:

1. Our priority is to ensure the safety and well-being of the potential victims and witnesses.
2. Complete a crime report listing the appropriate 368 PC section and assign a case number.
3. When interviewing the victim separately, try to ascertain their state of mind and level of competency and document their responses in the report. Be mindful to document any reliance on others in answering specific questions about the abuse. When appropriate, record (audio/video) all victim and suspect interviews with BWC (Body Worn Camera).
4. Whether 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).
5. Determine who is responsible for the care of the victim. Interviewing caretakers separately by obtaining as much information as possible since caretakers can be suspects in the abuse.
6. Interview and list all possible witnesses, household members, including neighbors. Neighbors and paramedics can often provide critical details in situations where the elder is unable to communicate well.
7. Attempt to obtain a signed medical release from potential victims.
8. Collect any relevant documents or evidence, such as checks, bank records, and credit card statements. Make copies and attach to original crime report.
9. Photos/documentation are essential and must be taken in cases involving neglect and physical abuse. Photos and documentation shall be taken of the victim and the scene. BWC shall not be used in place of these photos.
10. Comply with the provisions of the agency's policy requirements for arrest and mandatory seeking of arrest warrants and the requirements for seeking emergency protective orders.

11. If the victims were taken into protective custody, the reasons, the name, and title of the person making the decision, and why other alternatives were not appropriate.
12. Telephone APS (877-477-3646) as soon as possible to verbally report the abuse.
13. It is the agency's policy to make arrests or to seek arrest warrants, in accordance with Section 836, and, in the case of domestic violence, as allowed by Section 13701. The policy shall also state the agency protocol for seeking those arrest warrants.

In situations where a crime has not occurred, or when it cannot be determined that one has occurred, the officer should do the following:

1. Primary consideration should be given to the safety and security of the elder/dependent adult. If the victim needs emergency or immediate medical treatment, arrange for medical transport.
2. If the victim is gravely disabled, unable to care for him/herself, and/or is a danger to him/herself, and no responsible caregiver is present, contact APS immediately. Evaluate for detention under 5150 W&I and have victim transported to a hospital.
3. Recognize victim's cooperation is not always necessary for prosecution, and that in some cases allowing victims the option of preventing prosecution creates an opportunity for the perpetrators to obstruct justice by pressuring or threatening the victims. Each dispatched call or case should be investigated on its own evidentiary merits.

Detective Bureau Investigation responsibilities:

Follow-up investigations are necessary in many elder abuse cases, as first responders may not be in the best position to gather all existing evidence. Follow-up investigations by the Banning Police Department assigned Detective, when feasible should include:

1. Determine the victim is safe and whether there is a need for emergency housing.
2. Contact the assigned APS social worker, local long-term care ombudsman program, Bureau of Medi-Cal Fraud and Elder Abuse, other state law enforcement agencies with jurisdiction, for the possibility of joint investigation or sharing of information when appropriate and if necessary.

3. Obtain any prior reports by the Banning Police Department, APS, local long-term care ombudsman programs, any other responsible agencies, and referrals if they exist.
4. Verifying that the initial investigation by patrol addressed all elements of the reported crime.
5. Obtain and view all available evidence, including medical information, photographs, bank, checking, financial records, etc.
6. Determine if more evidence should be collected or obtained.
7. Follow-up interview of victim as soon as possible, preferably audio/video recorded, and outside the presence of caregiver or others present in the home. Whenever possible, no repeat interviews.
8. Provide referrals to therapy services, victim advocates, guardians, and support for the victim and family.
9. Attempt to interview the suspect when legally appropriate, preferably audio/video recorded.
10. Attempt to make appropriate law enforcement notifications if suspect remains unidentified.
11. Take advantage of other countywide resources if needed.
12. Obtain a signed medical release from victim if not already received by patrol.
13. If victim is conserved, obtaining conservator-signed release, along with paperwork that documents the conservatorship.
14. Interview the victim's treating physician or other medical professionals that interviewed the victim.
15. Conduct follow-up interviews with neighbors, family members, or others that may have information or evidence about the incident.
16. Conduct a recorded pretext call if necessary, reasonable, and warranted.
17. Be familiar with forensic interview techniques.
18. Execute warrants for electronics that may contain relevant evidence.
19. Collect dispatch 911 recordings for current incident and any past incidents.
20. Share and preserve body-worn camera evidence.
21. Collect physical or documentary evidence related to the crime.
22. Obtain handwriting samples from the victim and the suspect. Have the suspect sign his/her name, as well as the victim's name.
23. Document the suspect's access to victim's financial information.

24. Notification to the district attorney's office and any other agency that may be applicable based upon where the abuse took place (e.g., care facility, hospital) per Welfare and Institutions Code 15640(e)).
25. 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.

Supplemental Hate Crime Report.pdf

☐ Hate incident (No Crime Committed)

☐ Hate Crime (422.6 PC, 51.7 CC, 52.1 CC)

VICTIM

VICTIM TYPE

☐ Individual

Legal name (Last, First): _____

Date of Birth	Age	Sex	Race

☐ School, business or organization

Name: _____

Type: _____
(e.g., non-profit, private, public school)

☐ Faith-based organization

Name: _____

Faith: _____

☐ Other

Name: _____

Type: _____

Address: _____

Date and time of incident: _____

Location of incident: _____

Date and time of report: _____

Location of report: _____

Agency Case #: _____

NATURE OF CALL FOR SERVICE (check all that apply)

☐ Crime against persons

☐ Crime against property

☐ Gang activity

☐ Other _____

BIAS

TYPE OF BIAS

(Check all characteristics that apply)

☐ Disability

☐ Gender

☐ Gender identity/expression

☐ Sexual orientation

☐ Race

☐ Ethnicity

☐ Nationality

☐ Religion

☐ Significant day of offense

(e.g., 9/11, holy days)

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

☐ Other: _____

ACTUAL OR PERCEIVED BIAS – VICTIM'S STATEMENT

☐ Actual bias [Victim has the indicated characteristic(s)].

☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].

REASON FOR BIAS:

Do you feel you were targeted based on one of these characteristics?

☐ Yes ☐ No

Do you know what motivated the suspect to commit this crime?

☐ Yes ☐ No

Do you feel you were targeted because you associated yourself with an individual or a group?

☐ Yes ☐ No

Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?

☐ Yes ☐ No

Are there Indicators the suspect is affiliated with a criminal street gang?

☐ Yes ☐ No

BIAS INDICATORS (CHECK ALL THAT APPLY):

☐ Hate speech

☐ Acts/gestures

☐ Property damage

☐ Symbol used

☐ Written/electronic communication

☐ Graffiti/spray paint

☐ Other: _____

SUPPLEMENTAL HATE CRIME REPORT

POST 2-365 (01/2023) Page 2 of 2

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 ☐ NoNature 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 ☐ NoEvidence collected? ☐ Yes ☐ No Recordings: ☐ Video ☐ Audio ☐ BookedPhotos taken? ☐ Yes ☐ No 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

Supplemental Hate Crime Report-Agency.pdf

SUPPLEMENTAL HATE CRIME REPORT

Page 1 of 2

☐ 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

Page 2 of 2

HISTORY

SUSPECT INFORMATION				RELATIONSHIP BETWEEN SUSPECT & VICTIM	
Legal name (Last, First): _____				Suspect known to victim: ☐ Yes ☐ No	
Other Names used (AKA): _____				Nature of relationship: _____	
Date of Birth	Age	Sex	Race	Length of relationship: _____	
				☐ Prior reported incidents with suspect: <i>Total #</i> _____	
Relationship to Victim: _____				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	Recordings:	☐ Video	☐ Audio	☐ Booked	
Photos taken?	☐ Yes	☐ No	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	

DV_Lethality_Risk_Assessment.pdf

**DOMESTIC VIOLENCE LETHALITY RISK
ASSESSMENT FOR FIRST RESPONDERS**

Page 1 of 2

1. OFFICER	2. DATE	3. CASE#	4. ARRESTED ☐ YES ☐ NO
VICTIM INFORMATION		ABUSER INFORMATION	
5. VICTIM NAME	9. ABUSER NAME		
6. DOB	10. DOB		
7. ADDRESS	11. ADDRESS		
8. PHONE () -	12. PHONE () -		

To the first responders: The Lethality Assessment should be administered to all victims of domestic violence to assess the level of danger and/or the severity of the situation. Law enforcement personnel or victim advocates should use their judgement to interpret the information which the victim provides. More “yes” answers to the Lethality Assessment questions indicate that the victim is more likely to experience continued violence, be severely injured, and/or killed. It is important to use the results of this assessment in a constructive way to help the victim plan for her/his safety and to make referrals to resources matching to the specific circumstances of the victim’s situation. We recommend this completed assessment be attached to the incident or crime report.

To be read to the victim of domestic violence: “Domestic violence (DV) has many forms including physical, sexual, emotional and psychological abuse, stalking, and financial abuse. DV can be inflicted by a current or former partner. We are concerned about you because DV can affect you and your loved ones’ (including your children) immediate safety, as well as short and long term physical and mental health. Furthermore, several risk factors have been associated with serious injury and homicide. We would like to ask you some questions about your current risks and history of abuse with the person who has abused you today. The goal of this assessment is to help us learn more about your current risk of future serious harm by your abuser.”

☐ **Check here if the victim refused to participate in the assessment.**

1. Has the abuser ever been arrested or convicted of domestic violence, hostage taking, stalking or abduction?	☐ Yes	☐ No	☐ Not Answered
2. Does the abuser have a history of domestic violence, hostage-taking, stalking, or abduction?	☐ Yes	☐ No	☐ Not Answered
3. Do you know whether the abuser has any violent history towards others?	☐ Yes	☐ No	☐ Not Answered
4. Has the abuser expressed thoughts or threats to harm or kill you, children, a loved one (family, friend, new partner, etc), or himself/herself?	☐ Yes	☐ No	☐ Not Answered
5. Does the abuser have access to firearms or ever used or threatened to use a firearm against you?	☐ Yes	☐ No	☐ Not Answered
6. Has the abuser ever threatened to use or used another weapon or object to harm you?	☐ Yes	☐ No	☐ Not Answered
7. Does the abuser have a criminal history of the use of weapons (guns, knives, etc.)?	☐ Yes	☐ No	☐ Not Answered
8. Has the abuser ever used his/her hands or an object to choke, strangle, or suffocate you?	☐ Yes	☐ No	☐ Not Answered
9. Does the abuser have a history of arson or threats of arson?	☐ Yes	☐ No	☐ Not Answered
10. Does the abuser express jealousy or ownership over you?	☐ Yes	☐ No	☐ Not Answered

**DOMESTIC VIOLENCE LETHALITY RISK
ASSESSMENT FOR FIRST RESPONDERS**

Page 2 of 2

11. Does the abuser accuse you of infidelity?	☐ Yes	☐ No	☐ Not Answered
12. Does the abuser monitor or control your activities, where you go, who you interact with, or what you do? ("If I can't have you no one else can," "Death before divorce," etc.)?	☐ Yes	☐ No	☐ Not Answered
13. Does the abuser isolate you from family, friends and community life?	☐ Yes	☐ No	☐ Not Answered
14. Is the abuser severely depressed, (seeing little hope to live life)?	☐ Yes	☐ No	☐ Not Answered
15. Is the abuser unemployed?	☐ Yes	☐ No	☐ Not Answered
16. Has there been a recent escalation of the abuser's violence or risk behavior?	☐ Yes	☐ No	☐ Not Answered
17. Does the use of alcohol or drugs by the abuser exacerbate the violence or abuse?	☐ Yes	☐ No	☐ Not Answered
18. Has the abuser ever threatened or tried to commit suicide?	☐ Yes	☐ No	☐ Not Answered
19. Has the abuser been violent outside the home or in a public place?	☐ Yes	☐ No	☐ Not Answered
After advising the victim of the "high danger" assessment, was the victim offered assistance, referred to a victim advocate, or other resources (i.e. alternative shelter)?	☐ Yes	☐ No	☐ Unknown

Note: The questions above and the criteria for determining the level of risk a victim faces are based on the best available factors associated with lethal violence by a current or former intimate partner. However, each situation may present unique factors that influence the risk for lethal violence that are not captured by this assessment. Most domestic violence victims who are assessed as being involved in a "high danger" situation would not be expected to be killed. However, these victims face a much higher risk than that of other victims of intimate partner domestic violence.

Hate Crime Checklist.pdf

HATE CRIME CHECKLIST

Page _____ of _____

VICTIM	<u>Victim Type:</u> ☐ 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: _____	<u>Target of Crime (Check all that apply):</u> ☐ Person ☐ Private property ☐ Public property ☐ Other _____ <u>Nature of Crime (Check all that apply):</u> ☐ Bodily injury ☐ Threat of violence ☐ Property damage ☐ Other crime: _____ Property damage - estimated value _____
BIAS	<u>Type of Bias</u> <u>(Check all characteristics that apply):</u> ☐ 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): _____ _____	<u>Actual or Perceived Bias – Victim’s Statement:</u> ☐ Actual bias [Victim actually has the indicated characteristic(s)]. ☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)]. <i>If perceived, explain the circumstances in narrative portion of Report.</i> <u>Reason for Bias:</u> Do you feel you were targeted based on one of these characteristics? ☐ Yes ☐ No <i>Explain in narrative portion of Report.</i> Do you know what motivated the suspect to commit this crime? ☐ Yes ☐ No <i>Explain in narrative portion of Report.</i> Do you feel you were targeted because you associated yourself with an individual or a group? ☐ Yes ☐ No <i>Explain in narrative portion of Report.</i> Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)? ☐ Yes ☐ No <i>Describe in narrative portion of Report.</i> Are there Indicators the suspect is affiliated with a criminal street gang? ☐ Yes ☐ No <i>Describe in narrative portion of Report.</i>
	<u>Bias Indicators (Check all that apply):</u> ☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used ☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____ <i>Describe with exact detail in narrative portion of Report.</i>	
HISTORY	<u>Relationship Between Suspect & Victim:</u> Suspect known to victim? ☐ Yes ☐ No Nature of relationship: _____ Length of relationship: _____ <i>If Yes, describe in narrative portion of Report</i>	☐ Prior reported incidents with suspect? Total # _____ ☐ Prior unreported incidents with suspect? Total # _____ Restraining orders? ☐ Yes ☐ No <i>If Yes, describe in narrative portion of Report</i> 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	<u>VICTIM</u>	<u>SUSPECT</u>
	☐ Tattoos ☐ Shaking ☐ Unresponsive ☐ Crying ☐ Scared ☐ Angry ☐ Fearful ☐ Calm ☐ Agitated ☐ Nervous ☐ Threatening ☐ Apologetic ☐ Other observations: _____	☐ Tattoos ☐ Shaking ☐ Unresponsive ☐ Crying ☐ Scared ☐ Angry ☐ Fearful ☐ Calm ☐ Agitated ☐ Nervous ☐ Threatening ☐ Apologetic ☐ Other observations: _____
	<u>ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):</u>	
	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	
<u>Resources offered at scene:</u> ☐ Yes ☐ No Type: _____		

MEDICAL	<table style="width: 100%;"> <tr> <th style="width: 10%; text-align: center;"><u>Victim</u></th> <th style="width: 10%; text-align: center;"><u>Suspect</u></th> <th></th> </tr> <tr> <td style="text-align: center;">☐</td> <td style="text-align: center;">☐</td> <td>Declined medical treatment</td> </tr> <tr> <td style="text-align: center;">☐</td> <td style="text-align: center;">☐</td> <td>Will seek own medical treatment</td> </tr> <tr> <td style="text-align: center;">☐</td> <td style="text-align: center;">☐</td> <td>Received medical treatment</td> </tr> </table> Authorization to Release Medical Information, Form 05.03.00, signed? ☐ Yes ☐ No	<u>Victim</u>	<u>Suspect</u>		☐	☐	Declined medical treatment	☐	☐	Will seek own medical treatment	☐	☐	Received medical treatment	Paramedics at scene? ☐ Yes ☐ No Unit # _____ Name(s)/ID #: _____ Hospital: _____ Jail Dispensary: _____ Physician/Doctor: _____ Patient #: _____
	<u>Victim</u>	<u>Suspect</u>												
☐	☐	Declined medical treatment												
☐	☐	Will seek own medical treatment												
☐	☐	Received medical treatment												

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

Statutes and Legal Requirements.pdf

Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

Definitions

CPC 422.55 - Provides general definition of hate crimes in California.

CPC 422.56- Provides definitions of terms included in hate crimes statutes.

GC 12926- Disability-related definitions applicable to some hate crime statutes.

Felonies

Hate Crimes

CPC 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

Related Crimes

CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.

CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.

CPC 288(b)(2) - Sexual assault of dependent person by caretaker

CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.

CPC 11413 - Arson or destructive device at place of worship.

Misdemeanors

Hate Crimes

CPC 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

Related Crimes

CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.

Enhancements

CPC 190.2(a)(16) - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 190.3 - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 422.75 - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

CPC 1170.8 - Enhancement for robbery or assault at a place of worship.

CPC 1170.85(b) - Felony assault or battery enhancement due to age or disability.

Reporting

CPC 13023- Requirement for law enforcement agencies to report hate crime data to DOJ.

WI 15630 – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

Training and Policy Requirements

CPC 422.87 - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

CPC 13519.6 - Defines hate crime training requirements for peace officers.

CPC 13519.41 - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

Miscellaneous Provisions

CPC 422.78 - Responsibility for prosecution of stay away order violations.

CPC 422.86 - Public policy regarding hate crimes.

CPC 422.89 - Legislative intent regarding violations of civil rights and hate crimes

CPC 422.92 - Hate crimes victims brochure requirement for law enforcement agencies.

CPC 422.93 - Protection of victims and witnesses from being reported to immigration authorities.

GC 6254 - Victim confidentiality.

2014 Habitual Runaway -Missing Person Directive.pdf



Banning Police Department

125 E. Ramsey Street, Banning, CA 92220 (951) 922-3170

Department Directive

To: All Personnel

Date: November 19, 2014

From: Lieutenant Phil Holder

Reference: Directive Regarding Habitual Runaways/Missing Persons

When a group home employee, foster worker, social worker, or parent wants to report a minor (**who is not at risk**) as a runaway/missing person, an officer or dispatcher may complete or accept a Habitual Runaway/Missing Person report form as the first step of a Runaway/Missing Person Investigation **if the missing juvenile has developed a pattern of being a runaway/missing person**. A runaway/missing person pattern will be considered as three or more runaway/missing person reports taken within a six month period of one another. This will also apply to non-at risk adults who establish the same pattern of being a reported missing person.

Department personnel (Officers, Records Personnel, and Dispatchers) shall accept all Habitual Runaway/Missing Person Report Forms and make sure they are correctly filled out and signed by the reporting party before providing an incident number. Once completed the form shall be scanned into the assigned incident along with the required CLETS/MUPS entries and required APRS for missing persons.

The Habitual Runaway/Missing Person report form is not to be used when there is information to indicate the minor or adult is at risk. In cases involving an at-risk minor or adult, all investigative measures and time specific requirements outlined in the department policy manual shall be followed.

Dispatch will maintain the Habitual Runaway/Missing Person Report Form in dispatch and check with the group home or reporting party to see if the minor/adult has returned. If the minor/adult has not returned within 72 hours, the Habitual Runaway/Missing Person Report Form shall be given to a patrol officer who will be assigned to conduct a detailed investigation, as to the circumstances related to the runaway/missing person, and generate an investigative report to document the follow-up investigation.

If the Habitual Runaway/Missing Person returns within 72 hours, the reporting party can report them as returned by speaking to a dispatcher and completing the same form, while checking the "Returned Runaway/Missing Person" box, and forwarding it to the Dispatcher. Dispatchers will ensure the form is completed fully and signed. The dispatcher shall then scan the form into the incident along with the appropriate CLETS/MUPS entries taking the runaway/missing person out of the system. Both original copies of the Habitual Runaway/Missing Person form will then be forward to the records department for retention.

If at any time during the process of completing the Habitual Runaway/Missing Person report form an employee suspects the reporting party is not being truthful, the employee shall immediately notify the on-duty Watch Commander of the circumstances.

This new directive takes effect immediately. 

[illegible]



☐ Runaway/Missing Person ☐ Returned Runaway/Missing Person

Habitual Runaway/Missing Person Report

Banning Police Department
125 E. Ramsey Street
Banning, CA 92220
951-922-2287
951-922-0042 FAX
dispatchemail@ci.banning.ca.us

Habitual Runaway/Missing Person Information:

Name: _____ DOB: _____ Race: _____ Gender: _____
Height: _____ Weight: _____ Eye Color: _____ Hair Color/Length: _____ Glasses: Y ☐ N ☐
Address: _____ Telephone Number: _____
Driver's License/ID Number: _____ SSN: _____ Dental Charts / X-Rays: Y ☐ N ☐
Date of Last Contact: _____ Location of Last Contact: _____
Scars/Marks/Tattoos/Jewelry/Description & location: _____
Description of Last Known Clothing: _____

Additional Information: _____

Reporting Person Information:

Name: _____ Position / Title: _____
Organization / Facility: _____
Address: _____ Phone Number: _____

Attention: *If any of the below applies, a police officer is needed.*

Penal Code 14213 - At Risk Runaway/Missing Person: Includes but is not limited to the following:

- A victim of a crime or foul play
- A person missing and in need of medical attention
- A missing person with no pattern of running away or disappearing
- A missing person who may be the victim of parental abduction
- A mentally impaired missing person
- A person under 16 years old with no pattern of running away or disappearing

THIS RUNWAY/ MISSING PERSON IS **NOT AT RISK**: ☐ (RP's initials)

Signature of Reporting Party

Date

Banning Police Department use only:

Entered into MUPS: ☐ Yes ☐ No

Removed From MUPS: ☐ Yes ☐ No

Entered by: _____

Removed By: _____

Date / Time: _____

Date / Time: _____

File Number: _____

**CALL BANNING PD DISPATCH AT 951-922-2287 TO CONFIRM YOUR
FAX OR E-MAIL HAS BEEN RECEIVED.**

2016 5150 WIC Walkaway Directive.pdf



Banning Police Department

125 E. Ramsey Street, Banning, CA 92220 (951) 922-3170

Department Directive

To: All Personnel

Date: November 22, 2016

From: Captain Phil Holder

Reference: 5150 WIC Walkaways

When officers are assigned to respond and handle a 5150 WIC walkaway the following steps will be taken:

- Responding officers will contact the RP and obtain the 5150 subject's name, D.O.B., description, last known location and/or direction of travel, mental status, and what agency was responsible for the initial 5150 WIC status.
- Assigned officers will attempt to locate the subject by conducting an area search starting where the subject was last seen. If the subject resides in the City of Banning, officers will check the residence to see if the subject returned home. If the subject resides out of the City dispatch shall contact the responsible law enforcement agency and request them to check the residence to see if the subject came home.
- If the subject is not located after a reasonable search, the primary officer assigned to the call shall complete an APR to be disseminated to law enforcement agencies in the area indicating at the minimum the 5150 WIC Walkaway's name, D.O.B., last known location, direction of travel, possible destination, physical and clothing descriptions, mental status, and last known place of residence. If the original 5150 WIC report was taken by another agency dispatch will contact that agency to notify them the 5150 subject has walked away from the facility where they were left.
- Before closing the call, the primary officer will make a log note under the appropriate incident number documenting the circumstances of the walkaway to include the subject's name, D.O.B., physical and clothing description, mental status, and last known place of residence. Additionally, the primary officer shall indicate in the notes that an area check was completed, an APR was sent out, and if applicable what agencies were contacted and made aware of the subject's status.
- When a 5150 WIC Walkaway is located, after an APR was sent out, dispatch will send out a APR cancellation and document in the notes of the original incident where the subject was located and what agency located them.

2017 Stolen Vehicle Narrative Update.pdf



Banning Police Department

125 E. Ramsey Street, Banning, CA 92220 (951) 922-3170

Memorandum

To: Department Personnel

Date: December 22, 2017

From: Phil Holder, Captain

Reference: Change in narrative form regarding stolen vehicles

Effective today's date, officers can now use the CHP 180 to complete their narratives for initial and recovered stolen vehicle reports instead of using the RIMS narrative. However, to ensure this works effectively the following guidelines must be followed:

- Written narratives must be neat and legible. (Pencil or felt tip pens are best used on the CHP 180 Form. Since the form must be scanned and attached to the original case in RIMS, the use of a pencil is OK, as the information will be memorialized permanently once it is scanned into RIMS.
- The written narratives still need to contain all pertinent information that was being added in the RIMS narrative section. (If there are special circumstances that require a narrative longer than the space provided on the CHP 180 Form then the RIMS narrative section will be used.)
- In addition to the written narrative, all applicable and available information must be added to the Stolen/Embezzled/Recovery Narratives on the back side of the CHP 180 (Sections 1 – 36). This information need not be added to the written narrative.
- Both the front and back of the CHP 180 Form **must** be scanned and attached to the case in RIMS.
- Copies of the CHP 180 Form must still be forwarded to Records in the same manner.
- **This change does not apply to stolen vehicle recoveries involving an arrest. When an arrest is made the RIMS narrative section shall be used as there will be more details in the report.**

This change is a result of the Ad Hoc Report Writing Committee's efforts to streamline the department's report writing process. Additional changes are on the way and will be implemented as they are finalized and approved.

2016 Idling Vehicle Directive.pdf



Banning Police Department

125 E. Ramsey Street, Banning, CA 92220 (951) 922-3170

Memorandum

To: BPD Staff

Date: August 3, 2016

From: Phil Holder, Captain 

Reference: Directive regarding idling vehicles

In order to better maintain our department's vehicles and enhance their life expectancy the following directive is hereby implemented on today's date:

“No department vehicle will be left idling, while parked, unless the vehicle is actively being used during an investigation or call for service such as traffic stops, traffic control, perimeter control, and suspect detainment.”

I realize this directive will result in officers having to get into hot/cold vehicles during their shifts. However, with minimal resources we need to do what we can to make our equipment last.

FYI:

The department is in the process of upgrading computers in patrol vehicles which should result in quicker turn-on times. Those vehicles not receiving new computers are in the process of being replaced with 6 new Ford Explorers. We hope to have these new vehicles approved, purchased and in place sometime during November of this year.

Thank you for your understanding and cooperation in following this directive. If you have any questions, please do not hesitate to contact me.

CC: Alejandro Diaz,
Chief of Police



2013 Approved Ammunition.pdf



Banning Police Department

125 E. Ramsey Street, Banning, CA 92220 (951) 922-3170

Memorandum

To: Chief of Police via Chain of Command

Date: 09/02/2013

From: Sergeant Nic Schoen

Reference: Approved Ammunition List

Sir,

In May of this year, Lt. Holder asked me to compose a list of the ammunition the department uses, and why.

The list below was compiled based on ballistic tests from Winchester and the Federal Bureau of Investigation. I have also spoken with San Bernardino Sheriff's Office (SBSO) range staff, which does our perishable skills training and also their own ballistic tests.

Based on the information obtained from the above resources and my training and experience, I feel the following list of ammunition fits the needs of our department;

Winchester 9mm Luger, 115 grain, full metal jacket (practice)
Winchester Ranger 9mm Luger, 147 grain, T-Series (MP-5)
Winchester Ranger, 9mm Luger, 127 grain +P+, T-Series (duty)

Winchester 40 S&W, 180 grain, full metal jacket (practice)
Winchester Ranger 40 S&W, 180 grain, SXT (duty)

Winchester 357 Sig, 125 grain, full metal jacket (practice)
Winchester Ranger 357 Sig, 125 grain, SXT (duty)

Winchester 45 automatic, 230 grain, full metal jacket (practice)
Winchester Ranger 45 automatic +P, (duty)

Winchester 12 gauge, 2 ¾ inch, 1325 velocity, 9 pellet, 00 buck (practice/duty)

Winchester Super X, rifled shot shell, 12 gauge, 2 ¾ inch, Max DR EQ, 1 ounce, slug

(practice/duty)

Winchester 5.56, 55 grain, full metal jacket (practice and special applications such as when greater penetration is needed)

Winchester 223 Remington, 55 grain, pointed soft point (duty)

In reference to back-up, off-duty and alternate-duty weapon ammunition, it's recommended that be "per the weapon manufacturer specifications", however, no type of reloaded ammunition (personal or factory) is allowed for use. Additionally, if ammunition for the above listed weapons is a caliber we do not stock, it will be the officer's responsibility to purchase.

I have attached a manufacturer's ballistic chart for these cartridges along with an independent comparison ballistic chart for 9mm along with San Bernardino Sheriff's Departments Approved Ammunition List.

Very Respectfully,
Sgt. Nic Schoen

A handwritten signature in black ink, appearing to be "Nic Schoen", written over the typed name.

2016 Text to 9-1-1 Policy.pdf



Banning Police Department
125 E. Ramsey Street, Banning, CA 92220 (951) 922-3170

Memorandum

To: Department Personnel **Date:** February 3, 2016
From: Alex Diaz, Chief of Police
Reference: New Text to 9-1-1 Communication Policy

Effective today's date, the attached "Text to 9-1-1" policy is in place. This policy will be added to the policy and procedure manual as it is updated in the future. Although this policy primarily involves the department's dispatch center, everyone should read it to gain a better understanding of the "Text to 9-1-1" benefits and capabilities.

Text to 9-1-1 Communication System

802.5 Text to 9-1-1

Text-to-911 provides equal access to emergency services for the Deaf and Hard of Hearing Community as well as an alternate method of reporting emergencies when other traditional avenues are unavailable.

The Short Message Service (SMS) also known as text messaging provides support for wireless subscribers to send 911 SMS text messages to Public Safety Answering Points (PSAPs) by using the single code 911 as the destination address of the SMS message.

As with standard practice in the Communications Center, Text-to-911, is for official business and will fall under the same standards for recording and retention.

The following procedures will be followed for the processing of Short Message Service (SMS) to 911.

802.5.1 Logging on /off of the TCS EMedia Services 911 Platform

Beginning of Shift

Dispatchers assigned to receive Text-to-911 (SMS) messaging will log into the TCS EMedia 9-1-1 platform at the beginning of their shift provided there at least two (2) dispatchers on duty, as messages will only be received when logged on. Each dispatcher will ensure that the software is open and operational.

The EMedia software will be used in accordance with the training and policies that has been developed and presented.

Breaks

When the dispatcher is on break (Meal, restroom, etc) they will ensure that their assigned partner is available and they will log off of the system to avoid receiving a text-to-911 (SMS) message that may go unanswered. The remaining on-duty dispatcher has the option of logging off the system until the second dispatcher returns from their break.

End of Shift

At the end of their shift, or a change in assignment, the dispatcher will log off of the system after confirming their partner is available. During periods of shift change it is incumbent upon both dispatchers to provide and receive briefing or call information that is relevant to any active SMS calls for service.

802.5.2 Volume Control

When logged into the system, dispatchers must keep the volume for the text-to-911 (SMS) message on and set to an audible tone that can be heard by the dispatcher, as it is one of the indicators that a new 9-1-1 text message has been received.

802.5.3 Receiving a Text-to-911 Call

Prioritizing calls

All 9-1-1 calls are processed equally without regard to hierarchy and therefore Text-to-911 (SMS) lines will be accepted and answered immediately without delay and all calls shall be prioritized based on the nature of the call whether voice or text.

Ready/Not Ready

Upon receiving a Text-to-911 (SMS) call, the dispatcher may place themselves, "Not Ready/Busy," on the telephone system until the text messaging call has been handled.

Location Accuracy

It is imperative that the location be obtained at the earliest convenience because routing for location accuracy varies between cellular providers and for practical purposes it should be treated as a Phase 1.

Rebid

At this time, the dispatcher is limited to a maximum of 5 rebids/refresh for updated location accuracy. The highlighted number in the center of the map indicates the number of times the location has been rebid/refreshed. Keep in mind the limits as you process the call.

Upon transferring to another PSAP, the new dispatcher will receive a new allocation of 5 opportunities to rebid/refresh the location.

802.5.4 Drop Down Question Menu

There are several frequently asked questions designed as pre-set messages that the call taker may use to ease the processing of the text conversation. The canned messages should be used whenever possible to both expedite the call taking process and for consistency between calls. The flow of the text conversation should emulate those of voice 9-1-1 calls in that the 5 1/2 W's; Where, What, Who, When, Weapons, and How should be answered. Dispatchers will not use jargon, abbreviations, or acronyms but rather spell out questions to avoid misunderstanding with the callers.



1. The caller will be greeted with the following script; "Banning Police Department what is the location/address of the emergency you are reporting?"

Because it is imperative that the location be obtained and verified because routing for location accuracy varies between cellular providers and for practical purposes it should be treated as a Phase, the dispatcher must ask for an address of the emergency. This helps to locate the subject in case of an emergency in the future and being able to ID who texted from a specific cell number. This alleviates unnecessary calls to the cellphone security/tracking companies and saves times, when they do not speak or provide an address.

2. The dispatcher should ask the caller if they can call in by voice and if it is safe for them to do so.
3. The dispatcher should ask the caller if they can receive a voice callback if necessary and if it is safe for them to receive a call from 9-1-1.
4. The dispatcher will always generate a call for service in CAD via RIMS mask and then determine if a field unit's response is necessary. Under the source they will indicate, C, for cellular text.
5. Officer safety questions including the involvement of alcohol, drugs, and weapons will be asked.

802.5.5 Source Code and Call Type

The source code for all text calls will be "C" and the call type will be T911.

802.5.6 Multiple Text-to-911 Conversations

Each dispatcher assigned to Text-to-911 will process no more than two callers or conversations at once. Since multiple text sessions may be handled at once, per dispatcher, the highest priority Text-to-911 will be determined by the nature of the emergency.

Multiple texts, different incidents

It is imperative that if you receive multiple texts you respond to each message to ensure which call takes priority.

Multiple texts, same incident

If multiple texts are received about the same call or incident you must respond to each message to ensure that they are indeed related and not a different call.

802.5.7 Jurisdictional Boundaries

The caller is anchored to the originating PSAP until the dispatcher ends the conversation or transfers to another jurisdiction that accepts Text-to-911 calls. Upon successful transfer, the dispatcher may end their respective session by releasing the session.

Callers in a different Jurisdiction

SMS is an emerging technology and it is possible to receive a text from a caller that is not in your jurisdiction. If the text session enters another jurisdiction, then the incident will be passed on to that agency, either by transferring the session or by relaying all the information by voice.

Callers that travel into a different Jurisdiction – accepts text

If the caller leaves our jurisdiction the dispatcher will transfer the text session to the agency responsible for that jurisdiction if they are capable of receiving text sessions.

Callers that travel into a different Jurisdiction – does not accepts text

If the receiving agency does not have the capability of receiving text, the original dispatcher will maintain the session and relay the information to the appropriate agency.

802.5.8 Medical/Fire Calls

If it is determined that medical or fire suppression attention is necessary, and the responding agency is capable of receiving text sessions, the dispatcher will transfer the call via Text to the appropriate agency.

Prior to transfer

The dispatcher will send a text message to the caller stating, "Please stand by, I am connecting you with Fire/Medical services.

Secondary PSAP cannot accept text sessions

1. If the appropriate agency cannot process Text-to-911 calls the dispatcher will direct the caller to make a voice call to 9-1-1.
2. If the caller cannot make a voice call the dispatcher will take the necessary information and verbally turn it over to the correct agency. The dispatcher will then have to verbally update the responding agency as additional information is received, via text messaging

802.5.9 "E" priority calls for service

The dispatcher will keep the text session open to obtain and update officer safety information as well as update the call accordingly until an officer has made contact.

802.5.10 Texts Received in Languages other than English

Only dispatchers who have been recognized by the City of Banning as bi-lingual based on their language skills may answer calls via text in the approved language.

1. If the dispatcher assigned to Text-to-911 is not certified by the aforementioned criteria they will direct the caller to make a voice call to 9-1-1.
2. For callers texting in a language other than Spanish the dispatcher will direct them to make a voice call to 9-1-1.
3. If the dispatcher assigned to Text-to-911 is certified for written Spanish language skills and receives a call in Spanish from someone outside of our jurisdiction who is a member of the Deaf and Hard of Hearing community or in an emergency situation where it is too dangerous to make a voice call the dispatcher will process the call, gathering the necessary information, and contact the correct agency and provide them the information.

At this time, only Spanish, is offered as a second language but language translation services in the EMedia platform are currently in development to address the needs of our constituency.

802.5.11 Non-Response

Possible emergency

If there is language within the original text to indicate that there may be a legitimate emergency the dispatcher will message back the following:

“If you have an emergency, text or call 9-1-1.”

If there is still no response create a call for service using the type code **T911** using the best known location, either latitude/longitude, or address. If there are indications that the circumstances would fit another type code use the most appropriate type code.

Possible accidental text

If the language within the original text does not indicate that there is an emergency or that it was a misdial or accidental text the dispatcher will message back the following:

“If you have an emergency, text or call 9-1-1.”

802.5.12 Anonymous Text

At this time, using the interim Text-to-911 solution, the caller must have a data plan through a wireless carrier so there will not be a truly anonymous text.

If there is an indication that a legitimate emergency is occurring and the caller is non-responsive the dispatcher will create a call for service using the non-responsive protocol.

In addition, the dispatcher will notify the Watch Commander who will in turn follow the protocol for obtaining subscriber information and create a call for service as the situation dictates.

805.5.13 Ending the Call

Confirming the address

Before ending the call, the dispatcher will advise the caller that the requested assistance is being sent to the address that the caller provided. This will help confirm that the address of the incident location is correct.

For example, "Deputies will be dispatched to 123 W. Main Street in Banning"

Notifying the caller the session will end

The dispatcher will send the caller a message indicating that the text session has ended and then the dispatcher may end the session by using the ***Release*** button. Dispatchers will keep in mind, that a text messaging session cannot be restored or initiated by the dispatcher. Text sessions may only be initiated by callers and may only be ended by the dispatcher.

805.5.14 Multimedia Message Attachments (MMS)

In the unlikely event a text message contains multimedia content, the dispatcher shall not open the content, click any link, or open any dialog box containing the content. Instead, the dispatcher will indicate in the text of the call for service that multimedia content was contained in the text and the time stamp.

2010 Use of Department Gym.pdf



Banning Police Department

321 E. Ramsey Street, Banning, CA 92220 (951) 922-3170

To: All Department Personnel

Date: March 9, 2010

From: Leonard Purvis, Chief of Police

Reference: Use of Gym

No one is authorized to use the Gym until they have signed a department waiver regarding the use of this gym. The form is in the process of being created and should be ready soon. Thank you for your understanding and cooperation.

There are no exceptions to this directive.

2016 Detention Certificate-849(b) Protocols.pdf



Banning Police Department

125 E. Ramsey Street, Banning, CA 92220 (951) 922-3170

Memorandum

To: BPD Personnel

Date: September 29, 2016

From: Phil Holder, Captain  

Reference: Detention Certificate / 849(b) Release From Custody Protocols

To ensure the Banning Police Department and its employees are in compliance with Penal Code Sections 849.5, 851.6 (b), and 851.6 (d) the following procedures shall be followed, as directed.

In-Custody/Booked Arrests Rejected by the DA's Office:

When a person is arrested and charges are filed with the DA's Office and no accusatory pleading is filed by the DA's office with the courts charging the arrestee with an offense the department's Records Staff shall take the following actions:

- Upon receipt of the DA2 (Yellow Copy) and JUS 8715 (Blue Copy) rejection forms from the DA's office, Records Staff shall record the rejection in the appropriate location in the original case file in RIMS. This includes scanning both documents into the original file where they are labeled as "DA Rejection."
- Change the arrestee's connection in RIMS from "SA" (Suspect Arrested) to "DX" (Detention Only) under the Persons tab.
- Notify DB Sergeant and Evidence Technician of rejected cases, at least once per week, via email.
- Complete the Banning Police Department Detention Certificate Form A with the required information, which may necessitate searching the Riverside County Data Warehouse to obtain information on date of release and releasing agency.
- Submit completed Form A to the Lieutenant, Captain, or Chief of Police for approval and signature. Upon its return, scan the form into the original case file as a PDF and in the notes section add "Detention Certificate" and the date the **original form** was mailed to the most current address on file for the subject. A copy of the original form shall be made and retained in the hard copy file.

If the subject is a transient and does not have a permanent address on file, the original form shall be stored with the original report's hard copy on file in records. If at a later date the subject provides an address or presents themselves in person with proper ID, records staff can then provide them with the **original form** after making a copy that will still be maintained in the hard copy file.

Public Intoxication Arrests/Bookings & No Further Proceedings Are Desirable:

When a person is arrested, transported to the jail for detox, and no further proceedings are desirable the following procedures shall be followed, as directed.

- During the booking process of the intoxicated subject, the arresting officer shall complete Banning Police Department Detention Certificate Form B before leaving the jail facility. Once the form is completed, the arresting officer will leave the **white** copy at the jail for the arrestee to take with them when they are released and the **yellow** copy for the jail staff.
- The arresting officer shall complete the required police report pertaining to the arrest, listing the arrestee's connection in RIMS as "SA" (Suspect Arrested). The arrest report shall include the **pink** copy of the Banning Police Department Detention Certificate Form B and the booking paperwork from the jail. The arrest report shall also document the white copy of the form was left for the arrestee at the jail.
- Once the report is received by Records Staff they will change the arrestee's connection in RIMS from "SA" (Suspect Arrested) to "DX" (Detention Only) under the Persons tab.
- Records Staff will complete the required information on the California JUS 8715 Form and mail the **red** copy to the DOJ address noted on the backside of the **blue** copy of the same form. The **blue** copy shall then be scanned into the original RIMS report and labeled "No Further Proceedings Desirable." The **blue** copy will remain with the hard copy file of the original report in records. (See the attached example of the CA JUS 8715 Form indicating what information must be added to the form before it is sent to the CA DOJ.)

Arrestee Release from the Field/Station

When a subject is arrested and it is later determined they should be released from custody without being booked or cited the following procedures shall be followed, as directed. This also applies to releases from the hospital unless the subject is booked into the county hospital ward.

- The arresting officer or his designee shall complete the Banning Police Department Detention Certificate Form B and leave the completed **white** copy at the jail for the subject when they are released. Both the **yellow** and **pink** copies of the form shall be included with the report and one of them scanned into the Rims report.
- Officers completing reports related to the arrest and release of the subject shall classify them as "DX" (Detention Only) under the Persons tab.
- If a subject was arrested and released and a related criminal report is not required, an information report shall be completed to document the circumstances involving the arrest and release of the subject.
- A CA JUS 8715 form is not required as the subject was not booked and charges were not filed with the DA's Office.

Past Arrests Rejected by DA's Office

If a citizen contacts the Records Staff enquiring about their **past** arrest by the Banning Police Department; and it is determined the arrest in question was rejected for prosecution by the DA's Office the following procedures shall be followed, as directed.

- Records Staff shall confirm the subject's identification with a valid ID. Records Staff will then confirm the case status by reviewing the arrest report in question to determine if in fact it was rejected by the DA's Office.
- If it is confirmed the case was rejected by the DA's Office, Records Staff shall immediately change the arrestee's connection in RIMS from "SA" (Suspect Arrested) to "DX" (Detention Only) under the Persons tab.
- The Records Staff will then complete Banning Police Department Detention Certificate Form A and provide the original copy to the requesting subject only after making a copy to include with the hard copy file maintained in Records. This copy should be scanned into the RIMS case file and labeled "Detention Certificate Personally Served (Date) by (Records Staff Last Name)". A copy of the subject's presented ID should also be copied and attached to the hard copy Form A for proof of service.
- Remember to have the Lieutenant, Captain, or Chief of Police sign Form A before providing it to the citizen.



Banning Police Department

125 E. Ramsey Street, Banning, CA 92220 (951) 922-3170

DETENTION CERTIFICATE

CASE# _____

As required by Penal Code section 851.6, I hereby certify that the taking into custody of:

_____ on _____ by the Banning Police
Suspect's Printed Name Date

Department was a detention only, not an arrest. _____ was
Suspect's Printed Name

released on _____ by the _____
Date Releasing Agency

Officer's Signature

Officer's Printed Name and Title

Penal Code section 849 provides:

- (a) When an arrest is made without a warrant by a peace officer or private person, the person arrested, if not otherwise released, shall, without unnecessary delay, be taken before the nearest or most accessible magistrate in the county in which the offense is triable, and a complaint stating the charge against the arrested person shall be laid before the magistrate.
- (b) A peace officer may release from custody, instead of taking the person before a magistrate, a person arrested without a warrant in the following circumstances:
1. The officer is satisfied that there are insufficient grounds for making a criminal complaint against the person arrested.
 2. The person arrested was arrested for intoxication only, and no further proceedings are desirable.
 3. The person was arrested only for being under the influence of a controlled substance or drug and such person is delivered to a facility or hospital for treatment and no further proceedings are desirable.
 4. The person arrested was arrested for driving under the influence of alcohol or drugs and the person is delivered to a hospital for medical treatment that prohibits immediate delivery before a magistrate.
- (c) The record of arrest of a person released pursuant to paragraphs (1) and (3) of subdivision (b) shall include a record of release. Thereafter, the arrest shall not be deemed an arrest, but a detention only.

Penal Code section 849.5 provides:

In any case in which a person is arrested and released and no accusatory pleading is filed charging him with an offense, any record of arrest of the person shall include a record of release. Thereafter, the arrest shall not be deemed an arrest, but a detention only.

Penal Code section 851.6 provides, in part:

In any case in which a person is arrested and released pursuant to paragraph (1) or (3) of subdivision (b) of Section 849, the person shall be issued a certificate, signed by the releasing officer or his superior officer, describing the action as a detention.

In any case in which a person is arrested and released and no accusatory pleading is filed charging him with an offense, the person shall be issued a certificate by the law enforcement agency which arrested him describing the action as a detention.



Banning Police Department

125 E. Ramsey Street • Banning, CA 92220

(951) 922-3170

DETENTION CERTIFICATE

Date: _____

Case# _____

In compliance with the provisions of Section 851.6, as amended, of the California Penal Code, this is to certify that the arrest of the subject identified below is determined to be a detention only.

Subject's Name _____

Booking Number _____

BANNING POLICE DEPARTMENT

Arresting Agency _____

Date of Arrest _____

Charge(s) _____

Date of Release _____

The reason for this determination is shown below:

- ☐ 1. Section 849(b)(2) of the California Penal Code. Arrested for intoxication only and no further proceedings are desirable.
- ☐ 2. Section 849(b)(3) of the California Penal Code. Arrested only for being under the influence of a narcotic drug or restricted dangerous drug and was delivered to a facility or hospital for treatment and no further proceedings are desirable.
- ☐ 3. Section 849(b)(1), 825, 851.6 and 1115 of the California Penal Code.
 - ☐ Further investigation exonerated the arrested party.
 - ☐ The complainant withdrew the complaint.
 - ☐ Further investigation appeared necessary before prosecution could be initiated.
 - ☐ The ascertainable evidence was insufficient to proceed further.
 - ☐ On-Call Magistrate rejected Probable Cause statement.
 - ☐ Did not make last-day arraignment.
 - ☐ District Attorney rejected / Case not filed.
- ☐ 4. Section 849.5 of the California Penal Code. In any case in which a person is arrested and released and no accusatory pleading is filed charging him with an offense, any record of arrest of the person shall include a record of release. Thereafter, the arrest shall not be deemed an arrest, but a detention only.
- ☐ 5. Section 851.6 of the California Penal Code provides, in part:
 - (a) In any case in which a person is arrested and released pursuant to paragraph (1) or (3) of subdivision (b) of Section 849, the person shall be issued a certificate, signed by the releasing officer or his superior officer, describing the action as a detention.
 - (b) In any case in which a person is arrested and released and no accusatory pleading is filed charging him with an offense, the person shall be issued a certificate by the law enforcement agency which arrested him describing the action as a detention.

Officer's Printed Name and Title _____

Officer's Signature _____

Distribution:

White: Arrestee Yellow: Booking Package/RSO Copy Pink: Original Case File



STATE OF CALIFORNIA DEPARTMENT OF JUSTICE
BUREAU OF CRIMINAL INFORMATION AND ANALYSIS



LAW ENFORCEMENT REFERENCE FOR DISPOSITION REPORTING

Disposition information is best reported to the Department of Justice (Department) electronically. Department staff works with agencies to facilitate electronic disposition reporting. Contact the Bureau of Criminal Information and Analysis at Disposition.BCIA@doj.ca.gov for more information about electronic disposition reporting.

If your department is not able to immediately submit dispositions electronically, both the Adult Disposition of Arrest and Court Action (JUS 8715/8715A) and the Juvenile Detention Disposition Report (JUS 8716/8717) forms are available on the California Law Enforcement Website (CLEW), under the forms link on the front page of the website at <https://clew.doj.ca.gov>.

The Disposition Reporting Guide and the Electronic Disposition Reporting Manual are available under "All Publications, Forms and Downloads" in the Disposition Reporting section of the CLEW.

JUS 8715 Instructions

Attachment #1

Instructional page demonstrating what information must be reported to the Department in order to update state summary criminal history information with dispositions, such as detention only.

Attachment #2

Instructional page demonstrating what information must be reported to the Department in order to update state summary criminal history information with dispositions when no accusatory pleading is filed.

Attachment #3

General instructions on the filing out of the JUS 7815, including which Reason Code(s) should be used in reporting dispositions to the Department.



ADULT DISPOSITION OF ARREST AND COURT ACTION

SUBJECT INFORMATION																								
Name (Last, First, Middle) Required										DOB (mm-dd-yyyy) Required					CII Number Required									
Social Security Number					Driver's License Number					FBI Number					Hgt		Sex		Race					
A. LAW ENFORCEMENT																								
Arrest/Cite Date (mm-dd-yyyy) Required					Arresting Agency Required					Booking Agency														
LiveScan Booking Number Required					Citation Number Required					Crime Report Number					Remarks									
Chrg	Level			Arrest Charge (Section/Code)					On View	In-County Warrant Number			Out-of-County Warrant Number			Release Date		Reason for Release Code						
	I	M	F						X															
1	Required			Required												Required		Required						
2																		See list of codes on back page						
3																								
4																								
Type of Event: ☐ Arrest ☐ Citation ☐ Letter/Notice to Appear ☐ Court Ordered Booking																								
B. PROSECUTION																								
Date (mm-dd-yyyy)					Reason for Rejection/Referred Codes					☐ 1203.2 PC - In Lieu of Filing					Original Court Judicial District Number					Original Court Case Number				
					Chrg 1	Chrg 2	Chrg 3	Chrg 4	All Chrgs	☐ Refiled - Original Case Dismissed														
C. COURT																								
Date Filed (mm-dd-yyyy)					Judicial District Number					File Number					Consolidated File Number									
Chrg	File Level			Final Plea		Disposition					Disposition Date (mm-dd-yyyy)		Charges and Enhancements at Disposition (Section/Code)					Degree	Disposition Level					
	I	M	F	G	Nolo	Conv by Trial	Dism Code	Cert Juv	Acq	Not Guilty Insane									I	M	F			
1																								
2																								
3																								
4																								
D. PROCEEDINGS SUSPENDED																								
Date (mm-dd-yyyy)					☐ Bench Warrant Issued					☐ 707.2 WI - 90 Day Observation					☐ 1368-1370 PC - Found Mentally Incompetent - Committed									
					☐ Diversion					☐ 1203.03 PC - 90 Day Observation					☐ 3050 WI - Narcotics Commitment									
					☐ 1000-1000.5 PC - Drug Court Program / Deferred Entry of Judgment					☐ 3051 WI - Narcotics Commitment														
E. SENTENCE																								
Date (mm-dd-yyyy)					Condition of Probation					Other					Remarks									
					☐ Firearms Prohibited - 29815(a) PC ☐ Drug Treatment Program - 1210.1 PC (Prop 36)					☐ 290 PC Registration Charge: _____ ☐ 1170(h) PC														
Chrg	Reduced to Misd.	290 PC REG		ISS	Prob	Jail		Fine		Rstin	Jail or Fine		Conc	Cons	Vol Wrk	Costs	DJJ	Prison Sentence Information						
	X	Mand	Discret	X	Mos	Days	Days Susp	X	Susp X	X	Days	Susp	X	X	X	X	X	Stayed X	Total Fixed Term (All Charges)					
1																		Years	Months					
2																								
3																								
4																								
																		☐ Suspended		To be served:				
																				☐ Concurrently				
																				☐ Consecutively				
																				W/Case Number:				
F. ADMONISHMENTS & WAIVERS																								
(Required for Conviction)										(Required for "Guilty" or "Nolo" plea)														
☐ Defendant waived counsel ☐ Defendant represented by counsel										Defendant was advised of and understood:														
										• Charges and direct consequences of plea														
										Defendant was advised of, understood, and waived:														
										• Privilege against compulsory self incrimination														
										• Right to confront and cross examine witnesses														
										• Right to trial by jury														
										Court found admission was knowledgeable, intelligently made, and voluntary														
										Defense counsel concurred in defendant's admission														
G. CLERK OF THE COURT'S CERTIFICATION																								
I certify that the foregoing is a correct abstract of the disposition of arrest and court action in this case. (Certification required for conviction)																								
Legibly Printed or Typed Name										Date (mm-dd-yyyy)														
Title										County														



ADULT DISPOSITION OF ARREST AND COURT ACTION

SUBJECT INFORMATION																													
Name (Last, First, Middle) Required					DOB (mm-dd-yyyy) Required					CII Number Required																			
Social Security Number					Driver's License Number					FBI Number					Hgt	Sex	Race												
A. LAW ENFORCEMENT																													
Arrest/Cite Date (mm-dd-yyyy) Required					Arresting Agency Required					Booking Agency																			
LiveScan Booking Number Required					Citation Number Required					Crime Report Number					Remarks														
Chrg	Level			Arrest Charge (Section/Code)					On View	In-County Warrant Number	Out-of-County Warrant Number	Release Date		Reason for Release Code															
	I	M	F						X																				
1	Required			Required								Required		Required See list of codes on back page															
2																													
3																													
4																													
Type of Event: ☐ Arrest ☐ Citation ☐ Letter/Notice to Appear ☐ Court Ordered Booking																													
B. PROSECUTION																													
Date (mm-dd-yyyy) Required					Reason for Rejection/Referred Codes					☐ 1203.2 PC - In Lieu of Filing					Original Court Judicial District Number														
					Chrg 1 Chrg 2 Chrg 3 Chrg 4 All Chrgs					☐ Refiled - Original Case Dismissed					Original Court Case Number														
					Required See list of codes on back page																								
C. COURT																													
Date Filed (mm-dd-yyyy)					District Number					File Number					Consolidated File Number														
Chrg	File Level			Final Plea		Disposition					Disposition Date (mm-dd-yyyy)		Charges and Enhancements at Disposition (Section/Code)					Degree	Disposition Level										
	I	M	F	G	Nolo	Conv by Trial	Dism Code	Cert Juv	Acq	Not Guilty Insane								I	M	F									
1																													
2																													
3																													
4																													
D. PROCEEDINGS SUSPENDED																													
Date (mm-dd-yyyy)					☐ Bench Warrant Issued					☐ 707.2 WI - 90 Day Observation					☐ 1368-1370 PC - Found Mentally Incompetent - Committed														
					☐ Diversion					☐ 1203.03 PC - 90 Day Observation					☐ 3050 WI - Narcotics Commitment														
					☐ 1000-1000.5 PC - Drug Court Program / Deferred Entry of Judgment					☐ 3051 WI - Narcotics Commitment																			
E. SENTENCE																													
Date (mm-dd-yyyy)					Condition of Probation					Other					Remarks														
					☐ Firearms Prohibited - 29815(a) PC ☐ Drug Treatment Program - 1210.1 PC (Prop 36)					☐ 290 PC Registration Charge: _____					☐ 1170(h) PC														
Chrg	Reduced to Misd.	290 PC REG	ISS	Prob	Jail	Fine	Rstn	Jail or Fine	Conc	Cons	Vol Wrk	Costs	DJJ	Prison Sentence Information															
	X	Mand X	Discret X	X	Mos	Days	Days Susp	X	Susp X	X	Days	Susp	X	X	Stayed X	Total Fixed Term (All Charges)		To be served:											
																Years	Months	☐ Concurrently											
1																		☐ Consecutively											
2																		W/Case Number:											
3																													
4																		☐ Suspended											
F. ADMONISHMENTS & WAIVERS																													
(Required for Conviction)															(Required for "Guilty" or "Nolo" plea)														
☐ Defendant waived counsel ☐ Defendant represented by counsel															Defendant was advised of and understood:														
															• Charges and direct consequences of plea														
															Defendant was advised of, understood, and waived:														
															• Privilege against compulsory self incrimination														
															• Right to confront and cross examine witnesses														
															• Right to trial by jury														
															Court found admission was knowledgeable, intelligently made, and voluntary														
															Defense counsel concurred in defendant's admission														
G. CLERK OF THE COURT'S CERTIFICATION															Yes No														
I certify that the foregoing is a correct abstract of the disposition of arrest and court action in this case. (Certification required for conviction)															☐ ☐														
Legibly Printed or Typed Name										Date (mm-dd-yyyy)																			
Title										County																			

JUS8715/8715A INSTRUCTIONS AND CODE EXPLANATIONS

Please refer to the
DISPOSITION REPORTING GUIDE
for complete instructions.
The guide is located on the CLEW
website at <https://clew.doj.ca.gov/>

SUBJECT INFORMATION

The agency that initiates the JUS 8715/8715A must fill out this section.

A. LAW ENFORCEMENT

The JUS 8715/8715A is to be initiated by the agency that makes an arrest for which a fingerprint-based arrest report has been submitted to the California Department of Justice (DOJ). The arresting/bookings agency should complete Section A then either furnish the form to the DOJ (if disposition is final) or route the form to the prosecution when requesting that charges be filed.

Enter one of the following codes to indicate final disposition at the law enforcement level:

- 849(b)(1) PC**
- 1 Complainant Refuses to Prosecute
 - 2 Arrestee Exonerated
 - 3 Further Investigation
 - 4 Admissible Evidence Insufficient
 - 5 Ascertainable Evidence Insufficient
 - 6 849(b)(2) PC
 - 7 849(b)(3) PC
 - 8* Other Law Enforcement Disposition

Out-of-County Warrant Releases

- 10 Released on Bail
- 11 Extradition Proceedings
- 12 Cited and Released
- 13 Release/Enroute to Other Agency/Jurisdiction (Specify in Remarks Area)

* Enter the particular reason(s) for release in the "Remarks" area of Section A of the JUS 8715.

B. PROSECUTION

The prosecuting agency is responsible for completing Section B on the JUS 8715 when deferring or rejecting any charge.

Enter one of the following disposition codes in the corresponding charge box for each charge deferred or rejected:

- A Lack of Corpus
- B Lack of Sufficient Evidence
- C Inadmissible Search/Seizure
- D Victim Unavailable/Decline to Testify
- E Witness Unavailable/Decline to Testify
- F Combined with other Counts/Cases
- G Interest of Justice
- H Other (indicate reason in "Remarks" area)
- I Referred to Non-California Jurisdiction
- J Deferred for Revocation of Parole
- K Further Investigation
- L Prosecutor Prefiling Deferral

After deferral, the prosecutor is responsible for completing Section B, Reopen from Prosecution Prefiling Deferral, on the JUS 8715A.

C. COURT

When the court initiates the disposition document, the complete booking information must be added by the court, or the disposition must be forwarded to the booking agency for the missing arrest/booking information. In cases where the subject has not already been booked, the court should order the subject booked. The court is responsible for initiating a disposition document when:

- The JUS 8715 was not initiated by a law enforcement agency, but the subject appeared in court.
- The case was reopened, retried, or subsequent action occurred. Use the JUS 8715A to record this information.

The court is responsible for completing Sections C, D, E, F, and G on the JUS 8715 and Sections C, D, E, F, G, and H on the JUS 8715A.

Enter one of the following dismissal codes in the corresponding charge box for each charge dismissed:

- a* 1385 PC - Dismissal in the furtherance of justice.
- b 1377-1378 PC - Case compromised/restitution or satisfaction made.
- c 871 PC - Court found insufficient cause.
- d 1381-1382 PC - Delay - not filed/brought to trial within time.
- e* 995 PC - Accusation set aside.
- f 1008 PC - Defective accusation.
- g 1099 PC - Defendant became witness for the people.
- h 1100 PC - Insufficient evidence - witness for codefendant.
- i 1185-1187-1188 PC - Judgment arrested - defendant discharged.
- j 1185-1187-1188 PC - Judgment arrested - defendant recommitted.
- k* Mistrial - defendant discharged.
- l* Mistrial - defendant recommitted.
- m* Any dismissal other than a through l.

* Note the particular reason(s) for dismissal or declaration of mistrial in the "Remarks" area of Section E of the JUS 8715 and Section F of the JUS 8715A.

ROUTING

All pages of the JUS 8715/8715A forms accompany case documentation as it is forwarded to each agency involved in processing the case. Once a final disposition is rendered, the original first page is sent to the DOJ at the following address:

California Department of Justice
Bureau of Criminal Information and Analysis
P.O. Box 903417
Sacramento, CA 94203-4170

- A. **JUS 8715:** The second page (blue) is retained by the law enforcement agency if final disposition occurred at the law enforcement level. If final disposition occurred at any other level, the second page (blue) should be returned to the law enforcement agency when final disposition occurs. The third page (green) is retained by the court having final jurisdiction.
- B. **JUS 8715A:** The last page (JUS 8715A) is retained by the court and used to report any pertinent subsequent action information. Once completed, the original JUS 8715A is mailed to the DOJ, a photocopy is forwarded to the law enforcement agency, and a photocopy is retained by the court.

2024 - LBV Update 12.31.24.pdf



Banning Police Department

125 E. Ramsey Street, Banning, CA 92220 (951) 922-3170

Department Directive

To: Sworn Personnel

Date: December 31, 2024

From: Chief of Police Vince Avila

Reference: Load Bearing Vest (LBV) Update

As an alternative to the traditional “Sam Browne” duty belt, the Load Bearing Vest (LBV) may be worn by sworn personnel in uniformed assignments and non-uniformed personnel (detectives) while on-duty. The authorization of the LBV does not relieve the requirement that all sworn personnel maintain a serviceable Class A and Class B uniform, to include a serviceable “Sam Browne” duty belt, at all times. All specifications and uniform standards not specifically addressed in the LBV section shall default to the existing Class A and B uniform requirements.

Employees who choose to wear the LBV shall ensure it fits properly, is clean and free of stains, and is not damaged or excessively worn. The LBV is optional and shall be purchased and maintained at the expense of the employee, with no part of the purchase cost being offset by the Department (exception would be assignments requiring the LBV to be worn in a color other than black, including Gang Task Force (GTF)).

The color of the LBV shall be black, or olive green when assigned to the GTF. Pockets shall be sewn onto the LBV in a manner that securely holds their contents in place. MOLLE webbing may also be incorporated into the design of the LBV. The sole authorized manufacture for the department’s LBV is BPS Tactical, Inc, who has all the Banning PD specifications for the vest.

The following specifications for insignia and design of the LBV shall be followed:

1. The officer’s first initial and last name shall be located on the right breast by means of an embroidered cloth name tape. The letters shall be silver-gray colored and $\frac{3}{4}$ ” tall. The word “POLICE” shall be silver-gray colored, 1” tall, and attached to the right breast directly under the employee’s name. A Banning Police Department cloth badge shall be attached to the left breast. The word “POLICE” shall be centered on the back of the LBV, silver-gray in color and 4” tall.
2. Only authorized equipment shall be worn on the LBV in the following manner:
 - a. The Taser device shall be carried in a weak-side position on the LBV and/or duty belt opposite the duty weapon. Due to space limitations on the LBV, one of the noted devices may require positioning on the duty belt to avoid overcrowding of equipment on the LBV.

- b. Equipment pockets must be sufficient to securely carry required equipment (Taser, Baton, OC Spray, Handcuffs, Handgun Magazines, Radio, and Recording Device) and optional equipment if desired (Flashlight, Cell Phone, Knife, Keys, etc.) on the LBV with the exception of the duty handgun which shall not be carried on the LBV. Equipment pockets may not extend laterally above the bottom edge of the cloth badge and shall be limited to eight (8) total pockets on the front and side straps and a maximum of two (2) handcuff cases on the back of the LBV. A tab for the radio microphone does not count towards the 8 pockets.
- c. Other than the Taser device, the placement of equipment pockets on the LBV is the choice of the employee so long as their placement does not interfere with the required LBV insignia and is easily accessible by the employee. Placement of equipment pockets on the LBVs used by employees on a specialized task forces may vary according to their team standards.
- d. Department issued body armor shall be worn as an insert to the LBV per the manufacturer's guidelines. The LBV shall also be designed with internal pockets (front and back) to accommodate placement of department issued ballistic hard armor plates, when necessary.
- e. Fixed blade knives shall not be carried on the LBV. If a folding blade knife is to be carried on the LBV it shall be concealed in a pocket.

The following uniform specifications apply to employees wearing the LBV:

1. The authorized uniform to wear with the LBV is the Class C, the secondary Class C or BDU style uniform, Motor Officer uniform, and in special circumstances while needing to don a vest during plain clothes operations.
2. The duty holster must conform to the standards outlined in the firearms policy and may be worn at hip level or with a maximum six-inch drop extension. The use of a thigh holster requires at least one leg strap for better weapon security.
3. Officers should avoid wearing clothing (jackets, traffic vests, etc.) over the LBV that would prevent them from having access to any of their equipment on the vest. However, it is understood that on occasion it will be necessary for officers to wear their traffic vests over their LBV while directing traffic. In these types of situations, officers should remain aware of their access limitations to equipment on their access limitations to equipment on their LBV and remove the traffic vest if they become involved in a situation that might require some type of enforcement action.

Banning PD Policy Manual

Banning PD Policy Manual

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Banning Police Department

Banning PD Policy Manual

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