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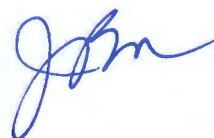


OAKLAND UNIFIED  
SCHOOL DISTRICT

Community Schools, Thriving Students

# Memo

**To** Board of Education

**From** Pete Sarna, Police Chief  
Jacqueline Minor, General Counsel 

**Board Meeting Date** June 8, 2011

**Subject** **Oakland Unified School District Police Department Operations Manual Updates**

**Action Requested** Approval of updates and modifications to the Oakland Unified School District Police Department Policy Manual

**Background** California law requires that the governing body approve the Police Department's Operations Manual or that exclusive authority be delegated to the Police Chief to establish and modify the Department's policies. The Operations Manual is binding upon all personnel and is revised from time to time as required by changes in the law, new procedures, or exigent circumstances. As changes in the Manual are required, the changes will be brought forward to the Board for approval.

**Discussion** Broadly speaking, the Operations Manual contains the day-to-day working instructions for the Police Department. The District's manual is modeled on Lexipol, LLC© policies. Lexipol updates its policy manual provisions semi-annually in June and December. In order to ensure that our policies are current, it is important for us to review and update our policies. The modifications before the Board amend thirty policies. Many of the changes have no significant impact on OUSD Police Services. Policy 324.3 (Juvenile – Non-Contact) is a rewrite an existing policy provision. Policy 336.3.5 (Victim Notification) is a new subsection in Policy 336. Policy 343 (Radio Communications) is a new policy. Policy 357 (Incident Notification) is a new policy. Policy 400.3 (Crowds, Gatherings) is a new subsection in Policy 400. Policy 600.3 and 600.4 (Custodial Interrogation Requirements; Exculpatory Evidence) are new subsections in Policy 600. Policy 1010.1 (Employee Convictions) is a significant rewrite of the existing policy provision. The modifications have been reviewed and vetted by the Chief, the General Counsel, and the Safety Committee of the Board recommends approval of the modifications.

**Recommendation** Approval of modifications to the Operations Manual for the District's Police Services Department

**Fiscal Impact** Funding resource: no direct funding implications

**Attachments**

- Modifications to Oakland Unified School District Police Department Policy Manual

# MODIFICATIONS TO OAKLAND UNIFIED SCHOOL DISTRICT POLICE POLICY MANUAL

## CHAPTER 3 - GENERAL OPERATIONS

### POLICY 302 - DEADLY FORCE REVIEW

#### 302.2.2 RESPONSIBILITIES OF THE BOARD

##### MODIFIED SUBSECTION

A new paragraph was added to this subsection to clarify the parameters of the review, the number of review panel members was changed to be consistent with the referenced statute, and minor edits were made throughout to improve styling.

The Use of Deadly Force Review Board is empowered to conduct an administrative investigation into the circumstances of an incident. The ~~Review Board membership~~ board members may request further investigation, call persons to present information, and may request that the involved employees appear before the ~~Review Board~~ board. The involved employees will be notified of the meeting of the ~~Review Board~~ board and may be represented by legal counsel and/or other representation through all phases of the review process.

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

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.

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

- a. The employee's actions were within ~~Department~~ department policy and procedures approved by the Board of Education.
- b. The employee's actions were in violation of ~~Department~~ department policy and procedures approved by the Board of Education.

A finding will ~~be~~ represent the consensus of the ~~Review Board~~ board. After the Review Board has concluded, the Chief of Police will submit written findings of the Review Board to the District's General Counsel. After review has been conducted by the District's General Counsel, a copy of the findings will be returned to the Chief of Police for additional review and appropriate action.

At the conclusion of the review process, a copy of all relevant reports and information will be presented to the Board in closed session and filed with the ~~Office of~~ Chief of Police.

Once the ~~Review Board~~ board has reached its specific finding, the ~~Department's Use of Force~~ Training Representative ~~Sergeant~~ may convene ~~the~~ a separate training committee to address training needs and to make recommendations for ~~the Department~~ this department without specific reference to the facts of the incident considered by the ~~Review Board~~ board.

## POLICY 314 - VEHICLE PURSUIT POLICY

### 314.7.4 INTERVENTION STANDARDS

#### MODIFIED SUBSECTION

This subsection has been modified to remove qualifying language in order to clarify that officers/deputies need to consider that the use of certain intervention techniques could be construed to be deadly force.

Any pursuit intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public, or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of deadly force and subject to the requirements for such use. Officers ~~who have not received certified Departmental training in the application and use of any intervention tactic or equipment~~ shall consider these facts and requirements prior to deciding how, when, where, and if an intervention tactic should be employed.

- No other changes to this subsection -

## POLICY 320 - DOMESTIC VIOLENCE

### 320.1 PURPOSE AND SCOPE

#### MODIFIED SECTION

This modification adds mutual protective order violations as a situation where making dual arrests is generally undesirable. Instead, officers/deputies should try to identify the dominant aggressor. This change results from recent updating of Penal Code § 836 and § 13701.

Domestic violence is alleged criminal conduct and it is the policy of the Oakland School Police Department to stress enforcement of criminal laws related to domestic violence, the protection of the victim, and the availability of civil remedies and community resources. This includes the arrest of domestic violence offenders and those who violate protective orders if there is probable cause to believe an offense has occurred.

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 determined to be the most significant, rather than the first, aggressor. In identifying the dominant aggressor, an officer shall consider:

- a. The intent of the law to protect victims of domestic violence from continuing abuse
- b. The threats creating fear of physical injury
- c. The history of domestic violence between the persons involved
- d. Whether either person acted in self-defense

### 320.5.1 RECORDING PHOTOGRAPHS OF INJURIES AND STATEMENTS

#### MODIFIED SUBSECTION

Video recordings in domestic violence investigations can be invaluable evidence and should be encouraged. In particular, video documentation of injuries and statements given by victims can be of great assistance in the event the victim later recants. Language has been added to this subsection regarding recording injuries and statements, and also collecting signed authorization for release of medical records forms.

All visible injuries should be photographed regardless of severity and all victims shall receive proper medical care prior to being photographed, if needed or desired. If feasible, officers may video-record injuries and victim statements. Officers should request that the victim complete and sign an Authorization for Release of Medical Records Form.

Victims whose injuries are not visible at the time of the incident shall be advised to contact the OPD Criminal Investigation Division, in the event they the injuries later become visible. An investigator may be assigned to ensure the injuries are photographed during the course of preparing the case for court.

## POLICY 324 - TEMPORARY CUSTODY OF JUVENILES

### 324.3.2 NON-CONTACT REQUIREMENTS

#### MODIFIED SUBSECTION

The modifications to this subsection address changes to Title 15 of the California Code of Regulations (CCR) dealing with contact between detained juveniles and adults.

Employees shall not allow physical or sustained sight or sound contact between detained juveniles and incarcerated adults. Sight contact is clear visual contact between adult inmates and juveniles within close proximity to each other; sound contact is direct oral communication between adult inmates and juvenile offenders. This applies to both non-secure and secure detentions (Welfare & Institutions Code § 208 and 15 CCR § 1006).

In situations where brief or accidental contact may occur, such as booking or movement between facilities, employees trained in the supervision of inmates must be present. These trained employees must maintain a constant, side-by-side presence with the minor or the adult to prevent sustained contact (15 CCR § 1144).

There shall be no contact between juveniles held in temporary custody (either non-secure or secure detention) and adult prisoners who are detained in the jail, except as provided below (208 Welfare and Institutions Code, Title 15 California Code of Regulations §§ 1544, 1546)).

Contact between juveniles in temporary custody, both secure and non-secure, and adult prisoners shall be restricted as follows:

- a. There will be no communication between the juvenile and adult prisoners allowed
- b. If an adult prisoner, including an inmate worker, is present with the juvenile in the same room or area, an Oakland School Police Department employee trained in the supervision of inmates shall maintain a constant side-by-side presence with either the juvenile or adult prisoner to assure there is no communication between the juvenile and adult prisoner
- c. Situations in which a juvenile and adult prisoner may be in the same room or corridor shall be limited to:
  - 1. Booking
  - 2. Medical screening
  - 3. Inmate worker presence while performing work necessary for the operation of the Oakland School Police Department such as meal service and janitorial service
  - 4.1. Movement of persons in custody within the Oakland School Police Department

### 324.7.7 PROTECTIVE CUSTODY

#### MODIFIED SUBSECTION

This modified subsection incorporates a new law designed to keep newborns who test positive for illegal drugs, or whose birth mother tests positive, from being taken into protective custody when the child is the subject of a potential adoption from foster care. The law now provides that an officer may not take into custody without a warrant newborns who meet the criteria of Welfare and Institutions Code § 305.6.

Pursuant to Welfare and Institutions Code § 300 et seq., a child may be taken into protective custody if he/she is the victim of suspected child abuse. Before taking any minor into protective custody, the officer should make reasonable attempts to contact the appropriate child welfare authorities to

ascertain any applicable history or current information concerning the minor.

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.

## POLICY 326 - ELDER ABUSE

### 326.3 MANDATORY REPORTING REQUIREMENTS

#### MODIFIED SECTION

The mandatory reporting requirements section has been revised to reflect recent changes in Welfare and Institutions Code § 15630.

~~Pursuant to Welfare and Institutions Code § 15630, the Members of the Oakland School Police Department is considered a are mandated reporters. "Any employee who has observed an incident that reasonably appears to be physical abuse, observed a physical injury where the nature of the injury, its location on the body, or the repetition of the injury clearly indicates that physical abuse has occurred or is told by an elder or dependant adult that he or she has experienced behavior constituting physical abuse shall report the known or suspected instance of abuse by telephone immediately or as soon as possible, and by written report sent within three working days."~~

Employees who observe, have knowledge of, or are told by an elder or dependant adult about any form of abuse (physical abuse, abandonment, abduction, isolation, financial abuse, neglect) shall make a report and notify the appropriate social services representative as soon as practicable (see Welfare & Institutions Code § 15630 for reporting details). Failure to make a report within two working days is a misdemeanor (Welfare and Institution Code § 15630(h)).

The OPD Criminal Investigation Division Supervisor is responsible to ensure that cases of suspected elder abuse are forwarded to the District Attorney's Office and any other regulatory agency that may be applicable based upon where the abuse took place (care facility, hospital) per Welfare and Institution Code § 15630(b).

## POLICY 330 - CHILD ABUSE REPORTING

### 330.2 DEFINITIONS

#### MODIFIED SECTION

The definition of child abuse has been rewritten to include specific references to applicable Penal Code statutes that define specific forms of abuse.

For purposes of this section the following definitions are provided:

Child - ~~means a~~ A person under the age of 18- years.

~~Child Abuse~~ means a physical injury which is ~~Child abuse or neglect~~ - Includes the following (Penal Code § 11165.6):

- Physical injury or death inflicted by other than accidental means upon a child by another person. ~~Child abuse also means the sexual~~
- Sexual abuse or any act or omission proscribed by ~~Penal Code § 273a (willful cruelty or unjustifiable punishment of a child) or as defined in Penal Code § 273d (unlawful~~ 11165.1
- Neglect as defined in Penal Code § 11165.2
- The willful harming or injuring of a child or the endangering of the person or health of a child,

as defined in Penal Code § 11165.3

- Unlawful corporal punishment or injury ~~– as defined in Penal Code § 11165.4~~

Child abuse ~~also means the or neglect of a child or abuse in out-of-home care. Child abuse~~ does not include ~~a mutual affray an altercation~~ between ~~children, minors~~. Child ~~abuse~~ ~~abuse or neglect~~ does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his ~~or~~ ~~/~~ her employment as a peace officer. (Penal Code § 11165.6.)

~~Child Protective Agency/Mandatory Reporter – means any organization or employee described in Penal Code § 11165.7~~ Child protective agency - A police or sheriff's department, a county probation department or a county welfare department. This section does not include school district police or security department.

## POLICY 336 - VICTIM WITNESS ASSISTANCE PROGRAM

### 336.3.5 VICTIM INFORMATION AND NOTIFICATION

#### NEW SUBSECTION

This new subsection has been added to alert officers to the existence of the Victim Information Notification Everyday (VINE) program and to ensure that victims are receiving referrals to the service when appropriate.

When appropriate, officers should advise the victim of the availability of the Victim Information and Notification Everyday (VINE) program. VINE is a free, computer-based telephone service that allows victims to check on an offender's custody status and register to receive automatic notification when an inmate is released from jail. The contact phone number for VINE is printed on the Oakland School Police Department Victim Information card.

## POLICY 340 - DISCIPLINARY POLICY

### 340.3.2 CONDUCT

#### MODIFIED SUBSECTION

Modification to this subsection eliminates the reference to criminal prosecution in paragraph (i), which is now more appropriately contained within the Employee Speech, Expression and Social Networking Policy, and corrects grammar and punctuation issues throughout.

- Unauthorized or unlawful fighting, threatening, or attempting to inflict unlawful bodily injury on another.
- Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment without first notifying the Chief of Police of such action.
- Using departmental resources in association with any portion of ~~their~~ ~~an~~ independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.
- Engaging in horseplay resulting in injury or property damage or the reasonable possibility thereof.
- Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through unreasonable carelessness or maliciousness.
- Failure of any employee to promptly and fully report activities on their own part or the part of any other employee where such activities may result in criminal prosecution or discipline under this policy.
- Failure of any employee to promptly and fully report activities that have resulted in official contact by any other law enforcement agency.
- Using or disclosing one's status as an employee with the Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-departmental business or activity.

- i. The use of any information, photograph, video or other recording obtained or accessed as a result of employment with the Department for personal or financial gain or without the expressed authorization of the Chief of Police or ~~his/her~~ designee may result in ~~criminal prosecution and/or~~ discipline under this policy. ~~(Penal Code § 146g).~~
- j. Seeking restraining orders against individuals encountered in the line of duty without the expressed permission of the Chief of Police.
- k. Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.
- l. Unwelcome solicitation of a personal or sexual relationship while on duty or through the use of ~~one's~~ official capacity.
- m. Engaging in on-duty sexual relations including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.

### 340.3.5 PERFORMANCE

#### MODIFIED SUBSECTION

Paragraph (m) has been modified to clarify language referencing the availability of this manual and the employees' requirement to familiarize themselves with the policies herein. (R) has been modified to clarify those organizations/people with which employees are prohibited from associating. (V) has been modified to clarify that illegal gambling is prohibited and that legalized gambling, when on-duty, on department premises or in uniform except when authorized in conjunction with an assignment, is also prohibited. Paragraphs (c), (j) and (o) have only minor punctuation changes.

- a. Unauthorized sleeping during on-duty time or assignments.
- b. Careless workmanship resulting in spoilage or waste of materials or work of an unacceptable nature as applicable to the nature of the work assigned.
- c. Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or instructions of supervisors without a reasonable and bona fide excuse.
- d. Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- e. Disobedience or insubordination to constituted authorities, including refusal or deliberate failure to carry out or follow lawful directives and orders from any supervisor or person in a position of authority.
- f. The wrongful or unlawful exercise of authority on the part of any employee for malicious purpose, personal gain, willful deceit or any other improper purpose.
- g. Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Department or subverts the good order, efficiency and discipline of the Department or which would tend to discredit any member thereof.
- h. Knowingly making false, misleading or malicious statements that are reasonably calculated to harm or destroy the reputation, authority or official standing of the Department or members thereof.
- i. The falsification of any work-related records, the making of misleading entries or statements with the intent to deceive, or the willful and unauthorized destruction and/or mutilation of any department record, book, paper or document.
- j. Wrongfully loaning, selling, giving away or appropriating any department property for the personal use of the employee or any unauthorized person(s).
- k. The unauthorized use of any badge, uniform, identification card or other department equipment or property for personal gain or any other improper purpose.
- l. The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the employee's duties (lawful subpoena fees and authorized work permits excepted).
- m. Any knowing or negligent violation of the provisions of the department manual, operating procedures or other written directive of an authorized supervisor. ~~Employees shall familiarize themselves with and be responsible for compliance with each of the above and the Department shall make each available to the employees. The Department shall make this manual available to all employees. Employees shall familiarize themselves with this manual~~

- and be responsible for compliance with each of the policies contained herein.
- n. Work-related dishonesty, including attempted or actual theft of department property, services or the property of others, or the unauthorized removal or possession of department property or the property of another person.
  - o. Criminal, dishonest, infamous or disgraceful conduct adversely affecting the employee/employer relationship, whether on- or off-duty.
  - p. Failure to disclose or misrepresenting material facts, or the making of any false or misleading statement on any application, examination form, or other official document, report or form or during the course of any work-related investigation.
  - q. Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved department practices or procedures.
  - r. ~~Substantiated, active, continuing association with or membership in organized crime and/or criminal syndicates with knowledge thereof~~Associating with or joining a criminal gang, organized crime and/or criminal syndicate when a department member knew or reasonably should have known of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by the Department.
  - s. Offer or acceptance of a bribe or gratuity.
  - t. Misappropriation or misuse of public funds.
  - u. Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
  - v. Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions: while on department premises-or-; at any work site; while on-duty or while in uniform; or while using any department equipment or system. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
  - w. Substantiated, active, continuing association on a personal rather than official basis with a person or persons who engage in or are continuing to engage in serious violations of state or federal laws, where the employee has or reasonably should have knowledge of such criminal activities, except where specifically directed and authorized by the Department.
  - x. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty, on department property or while in any way representing him/herself as a member of this agency, except as expressly authorized by the Chief of Police.
  - y. Engaging in political activities during assigned working hours except as expressly authorized by the Chief of Police.
  - z. Violating any misdemeanor or felony statute.
  - aa. Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Department or which is contrary to good order, efficiency or morale, or which tends to reflect unfavorably upon the Department or its members.
  - bb. Any failure or refusal of an employee to properly perform the function and duties of an assigned position.
  - cc. Failure to maintain required and current licenses (e.g. driver's license) and certifications (e.g., first aid).
  - dd. Giving false or misleading statements, or misrepresenting or omitting material information to a supervisor, or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.

### 340.3.9 INTERNAL/ADMINISTRATIVE INVESTIGATIONS

#### NEW SUBSECTION

This subsection is based on an OPD policy.

- a. Employees are required to answer questions by or render material and relevant statements to a competent authority in a Departmental investigation when so directed.
- b. Any employee who appears as a witness before any competent investigative body, judicial tribunal, hearing board or person authorized to receive testimony and refuses to testify shall be subject to disciplinary action.



- c. Employees are prohibited from contacting any witnesses or complainants involved with internal investigations for the purpose of influencing their testimony or persuading them to withdraw complaints. When routine contact with such persons is unavoidable, members and employees shall refrain from any discussion of complaints against Department personnel or testimony relating to those complaints.
- d. Employees shall not impart to any person, who is the subject of an internal investigation, any information that may assist him/her to conceal a violation of Departmental rules and regulations or otherwise thwart the internal investigation process.

## POLICY 343 - USE OF RADIO COMMUNICATION DEVICES

### NEW POLICY

This policy was created by Chief Sarna to provide guidelines and procedures for the use of radio communication devices.

### 343.1 PURPOSE AND SCOPE

This policy provides guidelines and procedures for radio communications.

### 343.2 RADIO SYSTEM

Radio operations will be conducted in accordance with the Federal Communication Commission (FCC) procedures and requirements. The Oakland School Police Department makes use of the City of Oakland's radio frequencies on OUSD owned transceivers and vehicle radios. The radio system provides 24-hour two-way radio capability allowing continuous communications between the Oakland Police Department Communications Center and the OSPD Officers on duty.

### 343.3 RADIO CODES

Transmissions via police radio to OPD Communications or to other field units shall be conducted using proper radio codes. The "900" series radio codes in use by the Oakland School Police Department shall be the same as those found in OPD General Order T-5. The use of plain English may be warranted in certain instances (e.g. mutual aid scenarios) when deemed to be reasonable.

### 343.4 RADIO CALL SIGNS

Officers shall use their assigned call sign for use on the radio. Call signs shall be assigned by the Watch Commander or shift supervisor.

### 343.5 PROCEDURE

Radio transmissions will be professional, clear and concise with special attention given to reducing excess verbiage. The Departmental policies regarding conduct will be followed at all times while using the radio system. In the interest of Officer safety, Police Officers shall:

- Notify Communications via radio when they go in service and out of service.
- Notify Communications via radio when returning to the Police Station.
- Request clearance from Communications via radio prior to going on their lunch break.
- Notify Communications via radio of the Officer's meal break location.
- Notify Communications via radio when they arrive at a call or scene, and when they exit their vehicles for any extended period of time (e.g. foot patrol, security checks, etc.).
- Notify Communications via radio whenever they conduct a car stop, walking stop, are flagged down, or provide cover to another field unit.
- Notify Communications via radio to give an update of their location at the scene of an incident they are investigating.

Department owned, or issued personal communication devices (PCD) such as mobile phones are intended to supplement police radios and aid in communicating with citizens. A PCD, however, shall not replace the proper utilization of the police radio. Officers shall not make use of a telephone to

notify Communications of any incident unless:

- There is an emergency on the patrol radio channel.
- Circumstances dictate that it would be inappropriate or impractical to utilize a radio.

## POLICY 344 - REPORT PREPARATION

### 344.2.2 NON-CRIMINAL ACTIVITY

#### MODIFIED SUBSECTION

This update adds an additional reporting recommendation as new paragraph (f) and includes several minor style changes.

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

- ~~When Anytime~~ an officer points a firearm at any person
- ~~Anytime a person is~~ reported missing ~~persons~~ (regardless of jurisdiction)
- ~~Any~~ found property ~~and or~~ found evidence
- ~~All Any~~ incidents involving the death of a human being (see ~~Policy Manual § 360~~ Death Investigations Policy in this manual)
- ~~Any~~ traffic collisions above ~~the~~ minimum reporting level (see ~~Policy Manual § 502~~ Traffic Accident Collision Reporting Policy in this manual)
- All protective custody detentions

### 346.3 MEDIA ACCESS

#### MODIFIED SECTION

Minor changes were made to better clarify the placement of media staging areas during emergency operations and criminal investigations A modification to paragraph (c) clarifies that employees who are under investigation cannot be required to meet with the media and press.

Authorized ~~and bona fide~~ members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions (Penal Code § 409.5(d)):

- 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 be prevented from interfering with emergency operations and criminal investigations.
  - Reasonable effort should be made to provide a safe staging area for the media representatives with access to the command post nearest the location of that is near the incident providing it and that will not interfere with emergency ~~operations or a criminal investigation operations~~. All information released to the media should be coordinated through the department Public Information Officer or other designated spokesperson.
  - Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (Federal Aviation Regulations 14 CFR § 91.137).
- No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).
- Media interviews with individuals who are in custody should not be permitted without the

approval of the Chief of Police and the expressed consent of the person in custody.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Public Information Officer.

## **POLICY 356 - MEGAN'S LAW**

### **356.3.3 USE OF DISCLOSURE FORMS**

#### **MODIFIED SUBSECTION**

This modification clarifies that when a department discloses information about a registered sex offender to the public, the agency must also provide a statement that the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders (290.45(a)(2)). Lexipol also recommends as best practice that the statement include the penalties for misuse of such information listed in 290.45(e).

Whenever information regarding any sex offender is publicly disseminated, the officer shall ~~complete~~include with the disclosure a Megan's Law Disclosure form which statement that the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders. A copy of this statement shall be promptly forwarded to the OPD Criminal Investigation Division (Penal Code § 290.45).

The release of such information shall also be noted by entering the notification into the comment field on the offender's Supervised Release File record.

## **POLICY 357 - INCIDENT NOTIFICATIONS / REPORTING REQUIREMENTS / SUPERVISORY REVIEW**

#### **NEW POLICY**

This policy was created by Chief Sarna to describe the requirements of mandatory incident notifications, reporting requirements, and supervisory review and approval of reports and arrests.

### **357.1 PURPOSE AND SCOPE**

The following policy covers the requirements for both officers and supervisors regarding mandatory incident notifications, reporting requirements, and supervisory review and approval of reports and arrests.

### **357.2 NOTIFICATION REQUIREMENTS**

#### **357.2.1 RESPONSIBILITY OF OFFICERS**

Officers shall notify their immediate supervisor as soon as practical when they determine any incident involving District property, employees, or students has occurred that meets any of the following criteria:

- Any felony crime
- Any sex crime
- Any missing person investigation
- Any weapons offense to include replica firearms
- Any crime motivated by race, gender, sexual orientation, religious beliefs
- Any crime or incident involving bullying or harassment
- Any crime motivated by gang affiliation
- Any injury requiring professional medical attention
- School lockdowns

### 357.2.2 SUPERVISORY RESPONSIBILITIES

When notified, supervisors shall review the officer's planned preliminary investigation and provide guidance and assistance when necessary. Supervisors shall ensure that a proper preliminary investigation is conducted and should respond to the scene of serious incidents to supervise the preliminary investigation when available.

Additionally, supervisors shall evaluate the seriousness of each incident and determine if any the following (but not limited to) actions should be performed:

- Broadcast of a communications order
- Immediate coordination with Oakland Police Department investigators
- Immediate coordination with other allied law enforcement agencies
- Crime scene processing / crime scene technician response
- Canvass of the surrounding area
- Notification to school and/or District officials / Safety Bulletin
- Notification to the Chief of Police

### 357.3 REPORTING REQUIREMENTS

#### 357.3.1 RESPONSIBILITY OF OFFICERS

All crime reports shall be completed and placed in the Department's report drop prior to the end of an officer's assigned shift. (This includes shift extensions due to overtime requirements.) Under no circumstances shall any report be completed the next business day.

All reports meeting any of the following criteria shall be submitted to the officer's immediate supervisor for review and approval prior to being turned in to the OPD Records Division:

- Any felony crime
- Any crime motivated by race, gender, sexual orientation, religious beliefs
- Any crime or incident involving bullying or harassment
- Any crime motivated by gang affiliation

Officers shall enter all incidents into the Campus Incident Reporting System (CIRS) as soon as practical. Officers shall not delay entering information into CIRS unless circumstances in the field reasonably prevent immediate entry. Under no circumstances shall an incident be entered into CIRS the following business day.

#### 357.3.2 SUPERVISORY RESPONSIBILITIES

Supervisors shall personally review and approve all reports meeting any of the following criteria:

- Any felony crime
- Any crime motivated by race, gender, sexual orientation, religious beliefs
- Any crime or incident involving bullying or harassment
- Any crime motivated by gang affiliation

Additionally, supervisors shall ensure the following when reviewing and approving reports:

- The report accurately depicts the crime and preliminary Investigation
- The report contains all of the necessary elements of the crime(s)
- Appropriate notifications to OPD or outside agencies have been made
- The report is free from grammar and spelling errors

If it is determined that the crime is serious and that any delay would jeopardize the follow-up investigation or public safety, the reviewing supervisor shall direct the reporting officer to hand-carry a copy of the report to the OPD Criminal Investigation Division and submit the original report to the OPD Records Section prior to the officer's end of shift.

The Watch Commander shall ensure that all completed reports are delivered to the OPD Records

section within 24 hours of completion.

### 357.4 ARREST APPROVAL PROCEDURES

#### 357.4.1 RESPONSIBILITY OF OFFICERS

Officers shall request and receive arrest approval from their immediate supervisor before transporting any arrestee (juvenile or adult) to a temporary holding area or custody facility. In the event an officer's immediate supervisor is unavailable, another Department supervisor may be requested to approve the arrest.

It is understood that exigent circumstances may require that a suspect be moved from the scene of a detention prior to arrest approval. Absent exigent circumstances, arrest approval shall be obtained before any detained person is transported to another location, temporary holding area, or custody facility.

#### 357.4.2 SUPERVISORY RESPONSIBILITIES

Supervisors shall respond to the scene of all arrest approvals. Once on scene, supervisors shall determine the following prior to approving any arrest:

- The officer's actions leading to the arrest were legal
- The arrest meets all probable cause requirements
- The officer's probable cause statement on the Consolidated Arrest Report is accurate
- The arrestee is not eligible to receive a field citation
- Whether or not the arrestee requires medical attention
- Whether or not a use of force investigation is required
- Whether or not a pursuit report needs to be completed

In the event an arrest approval is denied, the supervisor denying the arrest shall complete an interoffice memorandum to the Chief of Police detailing the reason for the denial. The supervisor shall also attach copies of all relevant documents related to the incident to include the crime report and arrest report.

## **POLICY 360 - DEATH INVESTIGATION**

### **360.2.2 SEARCHING DEAD BODIES**

#### **MODIFIED SUBSECTION**

This subsection has been modified with the addition of a citation to better assist in identifying the legal source of the content.

The Coroner or Deputy Coroner is generally the only person permitted to search a body known to be dead from any of the circumstances set forth in Government Code § 27491. The only exception is that an officer is permitted to search the body of a person killed in a traffic collision for the limited purpose of locating an anatomical donor card (Government Code § 27491.3). If such a donor card is located, the Coroner or ~~Deputy Coroner~~ designee shall be promptly notified. Should exigent circumstances indicate to an officer that any search of a known dead body is warranted prior to the arrival of the Coroner or ~~Deputy Coroner~~ designee; the investigating officer shall first obtain verbal consent from the Coroner or ~~Deputy Coroner~~ designee (Government Code § 27491.2).

Whenever possible, a witness, preferably a relative to the deceased or a member of the household, should be requested to remain at the scene with the officer pending the arrival of the ~~coroner~~ Coroner or a designee. The name and address of this person shall be included in the narrative of the death report. Whenever personal effects are removed from the body of the deceased by the ~~Deputy Coroner~~ or a designee, a receipt shall be obtained. This receipt shall be attached to the death report.

## CHAPTER 4 - PATROL OPERATIONS

### POLICY 400 - PATROL FUNCTION

#### 400.3 CROWDS, EVENTS AND GATHERINGS

##### NEW SECTION

This section was developed specifically to address a request from Lexipol clients who were seeking funds for the Neighborhood Stabilization Program, as it include required language. However, the steps below may work as a best practice for agencies who are not seeking such funds.

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 that impact District operations as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action. Officers are encouraged to contact organizers or 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.

### POLICY 406 - CRIME & DISASTER SCENE INTEGRITY

##### MODIFIED SECTION; DELETED AND MODIFIED SUBSECTIONS

Subsection 406.2.2 Media Access and Subjection 206.2.4 have been deleted as they are duplicates of content already in the News Media Relations Policy. Subsection 406.2.3 has been renumbered accordingly.

#### 406.2 CRIME SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident is generally responsible for ~~the preservation of~~ taking reasonable efforts to preserve the scene. Officers ~~however,~~ shall also consider officer safety and public safety ~~issues,~~ including ~~rendering reasonable efforts to render~~ medical aid ~~for~~ to any obviously injured parties. Once an officer has assumed or been assigned to maintain the integrity of the crime/disaster scene ~~it,~~ the officer shall ~~be maintained~~ continue to do so until he/she is relieved by a supervisor.

##### 406.2.1 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the functions which the first responder's function ~~responder should~~ reasonably attempt to take at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation, the availability of resources, capacity of personnel and totality of each circumstance:

- a. Ensure no suspects are still within the area.
- b. Broadcast emergency information, including all requests for additional assistance.
- c. Provide first aid to injured parties if it can be done safely.
- d. Evacuate the location as required.
- e. Secure the inner and outer perimeter ~~with crime scene tape~~ if needed.
- f. Protect items of apparent evidentiary value.
- g. Identify potential witnesses.
- h. Start a chronological log noting critical times and personnel allowed access.

#### 406.2.2 MEDIA ACCESS

Authorized and bona fide members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions (Penal Code § 409.5(d)):

- a. ~~The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public;~~
- b. ~~Media representatives may be prevented from interfering with emergency operations and criminal investigations.~~
  - 1. ~~Reasonable effort should be made to provide media representatives with access to the command post nearest the location providing it will not interfere with emergency operations or a criminal investigation.~~
  - 2. ~~Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (Federal Aviation Regulations § 91.137).~~
- c. ~~No member of this department shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).~~
- d. ~~Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the expressed consent of the person in custody.~~

A tactical operation should be handled in the same manner as a crime scene, except that the news media should be permitted within the outer perimeter of the scene, subject to any restrictions as set forth by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Public Information Officer.

#### 406.2.3-2 EXECUTION OF HEALTH ORDERS

Any sworn member of this department ~~is authorized to~~~~may execute and~~ 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 & Safety Code § 120155).

#### 406.3.1 CONSENT

##### MODIFIED SUBSECTION

This subsection has been modified to clarify that both consent and a search warrant should be sought in the case of serious crimes or major investigations.

~~While Officers should obtain~~ consent to search ~~should be obtained~~ from authorized individuals where possible, ~~it is often more prudent to obtain but should also consider obtaining consent and~~ a search warrant in the case of serious crimes or major investigations.

#### POLICY 412 - HAZARDOUS MATERIAL RESPONSE

##### 412.2 HAZARDOUS MATERIAL RESPONSE

##### MODIFIED SECTION

This modification adds the best practice of contacting the local health officer when there is a hazardous materials incident and adds a mandate with regard to pesticide spills.

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill, or fire. When employees come into contact with a suspected hazardous

material, certain steps should be taken to protect themselves and citizens.

The following steps should be considered at any scene involving suspected hazardous materials:

- a. Attempt to identify the type of hazardous substance. (Identification can be determined by placard, driver's manifest or statements from person transporting.)
- b. Notify Fire Department.
- c. Provide first-aid for injured parties if it can be done safely and without contamination.
- d. Begin evacuation of immediate area and surrounding areas, dependent on 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 § 10215).

## POLICY 420 - CITE & RELEASE POLICY

### 420.3.1 FIELD CITATIONS

#### MODIFIED SUBSECTION

This update changes the parameters for field citations based on the provisions of PC 853.6 and PC 1270.1.

Upon obtaining satisfactory identification and verifying that there are no outstanding warrants for the individual, officers may issue citations to all persons 18- years of age or older. ~~Officers may also release subjects who were taken into custody on a private person's arrest for a most misdemeanor offense, whenever appropriate.~~ unless otherwise prohibited in the guidelines that follow.

## POLICY 422 - ARREST OR DETENTION OF FOREIGN NATIONALS

### 422.7.1 ARREST PROCEDURE

#### MODIFIED SUBSECTION

Modified to clarify the notification requirements associated with arrested foreign nationals from specific countries and to update the link to the Mandatory Notification Countries and Jurisdictions list on the recently reorganized U.S. State Department website.

Whenever an officer physically arrests or detains an individual for criminal investigation and the officer reasonably believes the person to be a foreign national, the officer shall inquire to determine the person's citizenship.

This procedure applies to detentions of more than two hours. An inquiry is not required if the individual is detained less than two hours for criminal investigation.

If the individual indicates that he/she is other than a U.S. citizen, the officer shall advise the individual that he/she has a right to have the nearest appropriate embassy or consulate notified of the arrest/detention (Vienna Convention on Consular Relations, Art. 36, (1969)).

If the individual requests such notification, the officer shall contact the Communications Center as soon as practical and request the appropriate embassy/consulate be notified. Officers shall provide the Communications Center with the following information concerning the individual:

- Country of citizenship
- Full name of individual, including paternal and maternal surname, if used;
- Date of birth or age
- Current residence



- Time, date, place, location of incarceration/detention, and the 24-hour telephone number of the place of detention if different from the Department itself

If the ~~foreign national individual~~ claims citizenship of one of the countries ~~listed in Table 1 (appendix) for which notification of the consulate/embassy is mandatory~~, officers shall provide the Communications Center with the information above, as soon as ~~practical, practicable, regardless of whether or not~~ the individual desires ~~that~~ the embassy/consulate ~~to be notified~~. This procedure is critical because of treaty obligations with the particular countries. The list of ~~specific countries that the United States is obligated to notify may also be found at~~ jurisdictions that require notification can be found on the U.S. Department of State website.

~~Officers should attempt to provide the Communications Center with request for embassy/consulate notification at the same time they provide incarceration information in order to expedite these notifications.~~website.

## POLICY 434 - AIRCRAFT ACCIDENTS

### 434.2.1 OFFICER RESPONSIBILITY

#### MODIFIED SUBSECTION

This subsection has been modified to include additional considerations when handling an incident involving military aircraft.

Officers should treat an aircraft crash site as a crime scene until it is determined that such is not the case. If a military aircraft is involved, additional dangers, such as live ordnance or hazardous materials, may be present. The scene may require additional security due to the potential presence of confidential equipment or information.

The duties of the field officer at the scene of an aircraft accident include the following:

- Determine the nature and extent of the accident.
- Request additional personnel and other resources to respond as needed.
- Provide assistance for the injured parties until the arrival of ~~fire department~~ Fire Department personnel and/or other emergency personnel.
- Cordon off and contain the area to exclude unauthorized individuals as soon as practicable.
- Provide crowd control and other assistance until directed otherwise by a supervisor.
- Ensure the Coroner's office is notified if a death occurs.

Entering an aircraft or tampering with parts or debris is only permissible for the purpose of removing injured or trapped occupants, protecting the wreckage from further damage or protecting the public from danger. If possible, the investigating authority should first be consulted before entering or moving any aircraft or any crash debris. Photographs or sketches of the original positions should be made whenever feasible.

The Fire Department will be responsible for control of the accident scene until the injured parties are cared for and the accident scene has been rendered safe for containment. Thereafter, police personnel will be responsible for preserving the scene until relieved by the investigating authority.

Once the scene is relinquished to the investigating authority, personnel from this agency may assist in containment of the scene until the investigation is completed or assistance is no longer needed.

An ~~Airport Service Worker~~ airport service worker or the ~~Airport Manager~~ airport manager may respond to the scene to assist the on-scene commander with technical expertise, should it be needed during the operation.

## POLICY 436 - FIELD TRAINING OFFICER PROGRAM

### 436.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

#### MODIFIED SECTION

The edit level for this section has been changed from state to best practice. While it is highly recommended that supervisors/administrators of the Field Training Officers (FTO) program be selected from the rank of sergeant or above and should possess a Supervisor Certificate from the California Commission on Peace Officer Standards and Training (POST), it is recognized that some, particularly smaller agencies, may not be able to do so. Agencies that cannot meet the stated requirements may need to modify this section. However, those agencies must still comply with the training mandates of 11 CCR § 1004(c), which require the completion of a Field Training Supervisor's course within 12 months of appointment.

The ~~Field Training Officer~~FTO Program supervisor ~~will~~should be selected from the rank of sergeant or above by the Field Operations Division Commander or ~~his/her a~~ designee and ~~shall~~should possess, or be eligible to receive, a POST Supervisory Certificate.

The responsibilities of the FTO Program ~~Supervisor~~supervisor include the following:

- a. Assignment of trainees to FTOs-
- b. Conduct FTO meetings-
- c. Maintain and ensure FTO/~~Trainee~~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~~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)).

## Chapter 5 - TRAFFIC OPERATIONS

### POLICY 510 - VEHICLE TOWING POLICY

#### 510.5 VEHICLE SEARCHES

#### MODIFIED SECTION

Paragraph (e) is modified to clarify that a search for weapons is permissible when based on a reasonable suspicion that weapons might be present. Additional clarification was added regarding searches incident to arrest in light of the U.S. Supreme Court's ruling in *Arizona v. Gant*, 2009 U.S. LEXIS 3120 (April 21, 2009).

Vehicles may be searched when one or more of the following conditions are met:

- a. When probable cause to search the vehicle exists-
  - b. When it is reasonable to believe that the vehicle contains evidence of the offense of the arrest of the occupant~~(s)~~-
  - c. With consent of the operator-
  - d. Incident to an arrest if the occupant(s) of the vehicle have not been secured and remain within reaching distance of the passenger compartment-
- a.—To make a limited search for weapons when reasonable suspicion exists that a weaponsuspect is dangerous and the suspect may ~~be present~~.

- e. ~~When necessary to examine the vehicle identification number or to determine the ownership gain immediate control of the vehicle, a weapon~~
- f. Under emergency circumstances not otherwise enumerated above.
- g. Pursuant to a valid search warrant.

## Chapter 6 - INVESTIGATION OPERATIONS

### POLICY 600 - INVESTIGATION AND PROSECUTION

#### 600.3 CUSTODIAL INTERROGATION REQUIREMENTS

##### **NEW SECTION**

Audio and video recordings of interrogations can prove invaluable when the accuracy and volition of such statements is challenged at trial. Many states are adopting legislation requiring recordings in the case of certain crimes. As a best practice, this section requires, when feasible, the recording of custodial interrogation of anyone suspected of a violent felony. Safeguards have been provided to ensure recordings are not destroyed or duplicated without authorization.

Any custodial interrogation of a person who is suspected of having committed any violent felony offense should be electronically recorded (audio/video or both as available) in its entirety. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Officers should also consider electronically recording a custodial interrogation, or any investigative interview, for any other offense when the officer reasonably believes it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of an interrogation should be destroyed or altered without written authorization from the District Attorney and the OPD Criminal Investigation Division supervisor. Copies of recorded interrogations or interviews may be made in the same or different format provided they are true, accurate and complete copies and are made only for authorized and legitimate law enforcement purposes.

Officers should continue to prepare written summaries of custodial questioning and investigative interviews and continue to obtain written statements from suspects when applicable.

#### 600.4 POTENTIALLY EXCULPATORY EVIDENCE OR FACTS

##### **NEW SECTION**

This new section is intended to address due process issues related to prosecutions. Law enforcement officers may be found liable for civil rights violations for not forwarding exculpatory information to the prosecutor. This section is designed to reinforce the importance of revealing all exculpatory evidence. It provides a procedure to follow when a determination as to whether information is material is not immediately clear.

Officers must include in their reports adequate reference to all material evidence and facts which are reasonably believed to be exculpatory to any individual in the case. If an officer learns of potentially exculpatory information anytime after submission of the case, the officer must notify the prosecutor as soon as practicable.

Evidence or facts are considered material if there is a reasonable probability that they may impact the result of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an officer is unsure whether evidence or facts are material, the officer should address the issue with a supervisor.

Supervisors uncertain about whether evidence or facts are material should address the issue in a

written memo to an appropriate prosecutor. A copy of the memo should be retained in the department case file.

## Chapter 8 - SUPPORT SERVICES

### POLICY 810 - RELEASE OF RECORDS AND INFORMATION

#### 810.3.1 GENERAL CASE AND CRIME REPORTS

##### MODIFIED SUBSECTION

New legislation provides that when a child is killed as a result of criminal conduct, family members may request that autopsy reports and medical information be sealed and not released to the public. This creates an exemption from the California Public Records Act but does not affect normal criminal and civil discovery.

Reports containing any of the items listed below will not be released:

- a. ~~Victim information information~~ - Victims of crimes who have requested that their identifying information be kept confidential, victims who are minors and victims of certain offenses (e.g., sex crimes, Penal Code § 293) shall not be made public. The Penal Code § 841.5 makes it a misdemeanor to release confidential victim information to any potential criminal defendant.
- b. ~~Confidential information information~~ - Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved or information that would endanger the successful completion of the investigation or a related investigation shall not be made public.
  1. Analysis and conclusions of investigating officers may also be exempted from disclosure.
  2. If it has been noted in any report that any individual wishes to protect his/her right to privacy under the California Constitution, such information may not be subject to public disclosure.
- c. Specific ~~Crimescrimes~~ - Certain types of reports involving, but not limited to, ~~Child Abuse/Molestchild abuse/molestation~~ (Penal Code § 11167.5), ~~Elder Abuseelder abuse~~ (Welfare and Institutions Code § 15633) and ~~Juvenilesjuveniles~~ (Welfare and Institutions Code § 827) shall not be made public.
- d. ~~General information information~~ - Absent statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 6254(f).
- e. ~~Deceased juvenile crime victims~~ - The Code of Civil Procedure § 130 limits the dissemination of autopsy and private medical information concerning a murdered child by allowing families to request that the autopsy report of the victim be sealed from public inspection. Such requests shall be honored, with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants or civil litigants under state and federal discovery laws (Code of Civil Procedure §130).

#### 810.3.6 DOMESTIC VIOLENCE REPORTS

##### NEW SUBSECTION

This new subsection is added to address a recent change in the law that now requires agencies to provide, in a timely manner, a copy of domestic violence reports to victims or to their representative upon request.

Victims of domestic violence or their representative shall be provided, without charge, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, pursuant to the requirements and time frames of Family Code § 6228.

## POLICY 810 - RELEASE OF RECORDS AND INFORMATION

### 810.4 OTHER RECORDS

#### MODIFIED SECTION

This modification addresses a recent change in the statute that deals with required disclosure under the Public Records Act, which now exempts the release of certain information by a public agency if disclosure of that record would reveal vulnerabilities or increase the potential for an attack on the agency's information technology system.

Any other record not addressed in this policy shall not be subject to release where such record is exempted or prohibited from disclosure pursuant to state or federal law, including, but not limited to, provisions of the Evidence Code relating to privilege or to the security of the department's electronic technology systems (Government Code § 6254(k)) and Government Code 6254.19.

The Department maintains the right to refuse to disclose or release any other record when it would appear that the public's interest in accessing such record is outweighed by the need for nondisclosure (Government Code § 6255).

Any record which was created exclusively in anticipation of potential litigation involving this department shall not be subject to public disclosure (Government Code § 6254(b)).

## Chapter 10 - PERSONNEL

### POLICY 1010 - REPORTING OF EMPLOYEE CONVICTIONS

#### 1010.1 PURPOSE AND SCOPE

#### MODIFIED SECTION

Language has been added to include California regulations requiring notification to the Commission on Peace Officer Standards and Training (POST) on various changes in the status of an officer employed or investigated by the Department.

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties; ~~therefore~~. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

The Administration Supervisor shall submit in a timely manner a notice to the Commission on Peace Officer Standards and Training (POST) of any appointment, termination, reinstatement, name change or status change regarding any peace officer, reserve peace officer, public safety dispatcher and records supervisor employed by this department (11 CCR § 9040).

The Administration Supervisor shall submit in a timely manner a notice to POST of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR § 9041).

### POLICY 1012 - ALCOHOL AND DRUG USE POLICY

#### 1012.2.2 USE OF PRESCRIBED MEDICATIONS

#### MODIFIED SUBSECTION

The California Supreme Court made a strong statement in support of employers who do not allow marijuana use, even away from work. This minor edit makes it even more clear that marijuana use on or off duty is prohibited. (*Ross v. Ragingwire*, (2008) 42 Cal.4<sup>th</sup> 920)

~~Department employees who are medically required to take prescription medications during work hours shall not allow such medications to impair their ability to perform their work.~~ Any employee who is

required to take any medication with side effects which might impair his/her ability to fully and safely perform all requirements of ~~their~~ the position shall report the need for such medication to their immediate supervisor prior to commencing any on-duty status. No employee shall be permitted to work or drive a ~~Department~~ department-owned or ~~department~~-leased vehicle while taking such potentially impairing medication without a written release from his-~~or~~-/her physician.

Possession of medical marijuana or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action.

## POLICY 1016 - COMMUNICABLE DISEASES

### 1016.2 PROCEDURES FOR CONTACT WITH BLOOD OR BODY FLUIDS

#### MODIFIED SECTION/SUBSECTION

New language incorporates essential definitions of exposure from Health and Safety Code § 121060.1 and 8 CCR § 5193, which are based on the Center for Disease Control standards. Statutory citations and minor changes to comport with OSHA regulations are also included.

All department personnel who ~~may be involved in providing emergency medical care, or who come in contact with~~ are exposed to another person's blood ~~or body, bodily~~ fluids or an aerosol transmissible disease (e.g., during an altercation or while attending to any injured person), shall follow these procedures and guidelines. ~~For purposes of this policy, contact with blood or body fluids is synonymous with "blood borne pathogen exposure" as defined in Health and Safety Code § 121060.1.~~

Exposure to blood or other potentially infectious materials includes, but is not limited to, the contact of such substances with the eye, mouth, other mucous membranes, non-intact skin, needle sticks, human bites, cuts or abrasions or any exposure that otherwise qualifies under Health and Safety Code § 121060.1 or 8 CCR § 5193.

Exposure to an aerosol transmissible disease is any event in which all of the following have occurred (8 CCR 5199):

- a. An employee has been exposed to an individual who is a case or a suspected case of a reportable aerosol transmissible disease, or to a work area or to equipment that is reasonably expected to contain aerosol transmissible pathogens associated with a reportable aerosol transmissible disease.
- b. The exposure occurred without the benefit of applicable exposure controls required by this policy.
- c. It reasonably appears from the circumstances of the exposure that transmission of disease is sufficiently likely to require medical evaluation.

#### 1016.2.1 EXPOSURE CONTROL OFFICER

The Chief of Police will assign the Emergency Control Manager as the Department's Exposure Control Officer. The ~~Exposure Control Officer (ECO)~~ shall be responsible for the following:

- a. The overall management of the ~~BBP~~ bloodborne pathogen Exposure Control Plan (ECP).
- b. Establishing written procedures and a training program related to aerosol transmissible diseases, as required by 8 CCR § 5199.
- c. ~~The ECO will work~~ Working with management to develop and administer any additional related policies and practices necessary to support the effective implementation of this plan ~~and remain~~.
- d. ~~Remaining~~ Remaining current on all legal requirements concerning ~~BBP~~ bloodborne pathogens and other communicable diseases, as required by 8 CCR § 5193.
- e. ~~The ECO will act~~ Acting as a liaison during OSHA inspections ~~and shall conduct, conducting~~ program audits to maintain an up-to-date ECP and ensuring exposure ~~control plan~~ report forms

- are available and adequate for employees to properly report incidents of exposure.
- f. ~~The ECO will maintain~~Maintaining an up-to-date list of police personnel requiring training, ~~develop~~ Developing and ~~implement~~implementing a training program, ~~maintain~~maintaining class rosters and quizzes, and periodically ~~review~~reviewing and ~~updating~~ the training program.
- g. ~~The ECO will review and update~~Reviewing and updating the ~~Exposure Control Plan~~ECP annually (on or before January 1~~st~~ of each year).

Department supervisors are responsible for exposure control in their respective areas. They shall work directly with the ECO and ~~the~~any affected employees to ensure that the proper exposure control procedures are followed.

## 1016.5 SOURCE TESTING

### MODIFIED SECTION

Additional content describes another means of obtaining communicable disease testing when employees are exposed to blood or other body fluids of another in the course of their work.

Testing for communicable diseases of a person who was the source of an exposure should be sought when it is desired by the exposed employee or when it is otherwise appropriate. There are ~~four~~five methods to obtain such testing. It is the responsibility of the ECO to ensure ~~that~~ the proper testing and reporting occur. These methods are:

- a. Obtaining voluntary consent from any person who may be the source of an exposure ~~covering to~~ cover testing for any communicable disease.
- b. Filing a report with the ~~County Health Officer~~county health officer when an employee is exposed to the bodily fluids of an arrestee. The ~~County Health Officer~~county health officer may pursue testing for HIV or hepatitis B or C (Penal Code § 7510 et seq.).
- c. Seeking consent for testing or applying for a court order for HIV, hepatitis B and hepatitis C testing (Health and Safety Code § 121060 et seq.).
- d. Seeking a court order when the person who may be the source of an exposure will not consent to testing and the exposure does not fall under the statutory schemes for testing. This covers testing for any communicable disease as deemed appropriate by a health care professional and documented in the request for the court order.
- e. Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing an adult or juvenile when an employee of the Oakland School Police Department qualifies as a crime victim (Penal Code § 1524.1).

## POLICY 1022 - SEAT BELT PROCEDURE

### 1022.2.1 TRANSPORTING CHILDREN

#### MODIFIED SUBSECTION

Officers generally understand child safety restraint law, but this modified policy content simplifies the requirements and cites legal exceptions.

~~An approved child safety restraint system should be used for all children of age, size or weight for which such restraints are required by law (Vehicle Code § 27360). In the event that an appropriate approved child safety restraint system is not available, the child may be transported by sworn personnel and should be restrained in a seat belt (Vehicle Code 27363(b)).~~

~~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, children and the child restraint system or booster seat should be secured properly in the front seat of these vehicles, provided this positioning meets 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 passenger side air bag should be deactivated. In the event this is not possible, officers should consider arranging alternative transportation. Children under the age of 6 or who weigh less than 60 pounds should be~~

transported in compliance with California's restraint system requirements (Vehicle Code § 27360).

A child may be transported by sworn personnel without the use of a child passenger restraint system in an authorized emergency vehicle if a child passenger restraint system is unavailable and the child is secured by a seat belt (Vehicle Code § 27363(b) and Vehicle Code § 165).

Members should deactivate, if available, the passenger side airbag when appropriate, such as when transporting a rear-facing infant or child in the front seat.

## POLICY 1026 - PEACE OFFICER PERSONNEL FILES

### 1026.7.1 DEPARTMENT FILE

#### MODIFIED SUBSECTION

Minor corrections have been made to this subsection. References to "training officer" in (b)(1) and (2) have been changed to training sergeant, which is consistent with 1026.7.4(a) and (b).

The Department file should contain, but is not limited to, the following:

- a. Performance evaluation reports regularly completed by appropriate supervisor~~(s)~~ and signed by the affected employee shall be permanently maintained.
- b. Records of all training (original or photocopies of available certificates, transcripts, diplomas and other documentation) and education shall be maintained.
  1. It shall be the responsibility of the involved employee to provide the ~~training officer~~ Training Sergeant or immediate supervisor with evidence of completed training/education in a timely manner.
  2. The ~~training officer~~ Training Sergeant or supervisor shall ensure that copies of such training records are placed in the employee's ~~Department~~ department file.
- c. Disciplinary action~~;~~:
  1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained in the individual employee's ~~Department~~ department file at least three years (Government Code § 34090).
  2. Disciplinary action resulting from a sustained citizen's complaint shall be maintained in the individual employee's ~~Department~~ department file at least five years (Penal Code § 832.5).
  3. Investigations of complaints which result in a finding of not-sustained, unfounded or exonerated shall not be placed in the employee's ~~Department~~ department file, but will be separately maintained for the appropriate retention period in the internal affairs file.
- d. Adverse comments such as supervisor log entries may be retained in the ~~Department~~ department file or division file after the employee has had the opportunity to read and initial the comment and for a period up to three years (Government Code § 3305).
  1. Once an employee has had an opportunity to read and initial any adverse comment prior to entry into a file, the employee shall be given the opportunity to respond in writing to such adverse comment within 30 days (Government Code § 3306).
  2. Any such employee response shall be attached to and retained with the original adverse comment.
  3. If an employee refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination nor shall it prohibit the entry of the adverse comment into the employee's file.
- e. Commendations shall be retained in the employee's ~~Department~~ department file, with a copy provided to the involved employee~~(s)~~.
- f. Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status shall be permanently retained.



- g. A photograph of the employee shall be permanently retained.

## POLICY 1050 - NEPOTISM AND CONFLICTING RELATIONSHIPS

### MODIFIED POLICY

This policy has been modified to provide further clarification to the purpose of the policy and expand upon the prohibition of nepotism.

#### 1050.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective supervision, safety, security, performance, assignments and discipline while maintaining positive morale employment practices by avoiding actual or perceived favoritism, discrimination, or ~~other~~ actual or potential conflicts of interest by or between members the Department of this department. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

#### 1050.1.1 DEFINITIONS

**Business relationship** - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture or other transaction, where the Department employee's annual interest, compensation, investment or obligation is greater than \$250.

**Conflict of interest** - Any actual, perceived or potential conflict of interest in which it reasonably appears that a department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

**Nepotism** - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

**Personal relationship** - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

**Public official** - A supervisor, officer or employee vested with authority by law, rule or regulation or to whom authority has been delegated.

**Relative** - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

**Subordinate** - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

**Supervisor** - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

#### 1050.2 RESTRICTED DUTIES AND ASSIGNMENTS

~~While the~~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)):

- 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.
  1. If circumstances require that such a supervisor/subordinate relationship exists

temporarily, the supervisor shall make every reasonable effort to defer matters ~~involving~~ 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 ~~as it may deem necessary~~ 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, ~~FTO's~~ FTOs and other trainers will not be assigned to train relatives. ~~FTO's~~ 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. ~~In order to~~ 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(s) ~~who~~ they know or reasonably should know ~~are~~ is under criminal investigation, is a convicted felons, ~~parolees, fugitives, , parolee, fugitive or~~ registered sex ~~offenders, or who~~ engage ~~offender or who engages~~ in serious violations of state or federal laws.

#### 1050.2.1 EMPLOYEES 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, ~~employees~~ the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any employee is placed in circumstances ~~which that~~ would require the employee to take enforcement action or provide ~~other~~ official information or services to any relative or ~~other~~ individual(s) with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved, immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify dispatch to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

#### 1050.2.2 SUPERVISORS RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance(s) ~~which 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.

temporarily, the supervisor shall make every reasonable effort to defer matters ~~involving~~ 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 ~~as it may deem necessary~~ 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, ~~FTO's~~ FTOs and other trainers will not be assigned to train relatives. ~~FTO's~~ 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. ~~In order to~~ 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(s) ~~who~~ they know or reasonably should know ~~are~~ is under criminal investigation, is a convicted felon, parolee, fugitive, , parolee, fugitive or registered sex offender, or who engage ~~offender or who engages~~ in serious violations of state or federal laws.

#### 1050.2.1 EMPLOYEE'S 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, ~~employees~~ the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any employee is placed in circumstances ~~which that~~ would require the employee to take enforcement action or provide ~~other~~ official information or services to any relative or ~~other~~ individual(s) with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved, immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify dispatch to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

#### 1050.2.2 SUPERVISORS RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance(s) ~~which 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.