CHIEFS PREFACE

The purpose of these regulations are, in general, to provide a basis for the orderly and disciplined performance of duty. Their publication will promote a surer knowledge of what is expected of personnel generally and of all ranks and assignments specifically. These regulations are an integral component of the police Department's value-based organization. The values of the Department, the mission of organizational philosophies and operational principles are manifested in these rules, which establish standards of conduct.

Through these regulations, every effort has been made to confine them to those phases of official behavior which affect Departmental operation and to avoid unwarranted or unnecessary intrusion upon the private life and off duty actions of members of the Department. However, in the eyes of the public, a police officer is never off duty and his or her every act may be subject to scrutiny, interpretation, and comment. Therefore, the regulations must be based upon the interests of the organization as a whole.

The Hayward Police Department should strive to support three crucial principles: Excellence, accountability, and commitment. Members of the organization are responsible for ensuring these three elements are part and parcel of their professional life. Working in the Hayward Police Department takes exceptional people willing to be held to the high standard that society and the courts have placed on the police profession. To be worthy of public trust, police authority must be exercised in a manner consistent with the highest of principles.

We constitute an organization whose very existence is justified solely on the basis of community service. The community and police personnel have a close-knit relationship in which teamwork and shared responsibilities are vital to the success of the organization and to the community at large. Hayward's public safety philosophies support the concepts of community-based problem-solving, prevention, intervention, collaboration and partnerships.

To accomplish this mission, every police department employee is encouraged to value and promote personal and organizational integrity, problem-solving and partnerships, accountability at every level of the organization, professional police service, respect for diversity and inclusiveness, open and honest communication, and innovation and creativity.

We should consider it our duty and privilege, not only to protect our citizens from the criminal element, but also to protect and defend the rights guaranteed by the Constitution as well as state, county, and local law. It may be said that matters of civil law are not a basic police responsibility and, within reasonable limits, we should attempt to avoid becoming entangled in them. However, in many situations, justice can best be served only when we assist in such matters. Our philosophy must embrace a wholehearted determination to protect and support the doctrine of individual rights while providing for the security of persons and property in the community. In meeting this objective, it is our duty to operate as a service organization. The nature of what we do demands honesty, discretion, quick thinking, patience, courage, pride, unquestionable ethics and a host of other qualities that are tested on a daily basis.

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CHIEFS PREFACE

Our Departmental Policy Manual clearly sets forth the limits of police conduct and the exercise of police powers for our employees. The policies are designed to instill a high degree of public trust in the organization while, at the same time, providing fair and reasonable standards for our employees. As a result, it is a living document that is subject to change as laws, court decisions, City Council policies, the Strategic Plan, and other factors dictate.

As an organization accountable to its community, we are committed to continuously reviewing and, as needed, updating these policies to ensure we strive toward the highest possible standard of service. Just as our organization earns and owns its professional image, every member has a responsibility to embrace the mission, policies, and practices of the Hayward Police Department.

It is every employee's duty to become thoroughly familiar with the contents of this manual, including keeping current as updates are made. The Hayward Police Department's core values form the foundation on which we perform our duties and conduct ourselves. These values are used as a guide and source of inspiration for all that we say and do. They are an integral part of our daily operations and ensure that our personal and professional behavior reflect our highest traditions of excellence.

As the Chief of Police, I am both honored and proud to lead the men and women of the Hayward Police Department. I know each of you is committed to the excellence, accountability, and commitment that it takes to be a part of the police profession in today's world.

Upon distribution of this manual, all other existing manuals, orders and regulations that are in conflict are hereby revoked.

Toney Chaplin, Chief of Police

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LAW ENFORCEMENT CODE OF ETHICS

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will 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 both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, 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 police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

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MISSION, VISION, AND VALUE STATEMENTS

Mission:

We are committed to enhancing the quality of life in our city by maintaining partnerships with our diverse community, together creating safe and cohesive neighborhoods. We pledge to safeguard the lives and property of the people we serve, and to reduce the incidence and fear of crime. We do this by treating all people fairly and equitably and by being ethical, honest, responsive and professional in the services we provide. We are accountable to one another and to the community.

Vision:

We seek to be a leader in law enforcement service delivery that ensures a safe, secure and desirable community.

- A place where people are proud to work
- An ethical environment of respect and trust, where employees are provided adequate resources
- To receive quality training and professional development, utilizing state of the art equipment, technology, and facilities

Values:

- Ethical and honest behavior
- Accountability
- Fair and equal treatment
- Teamwork, camaraderie, and community
- Modeling leadership and providing clear direction

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Chapter 1 - Law Enforcement Role and Authority

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Law Enforcement Authority

100.1 PURPOSE AND SCOPE

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

100.1.1 ACCREDITATION STANDARDS

This policy pertains to the following CALEA Standards: 1.2.1, 1.2.3

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 HAYWARD POLICE DEPARTMENT

The arrest authority outside the jurisdiction of the Hayward 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 HAYWARD POLICE DEPARTMENT

The arrest authority within the jurisdiction of the Hayward 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.

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

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

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

Hayward 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

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exercising law enforcement authority in Oregon shall submit any appropriate written reports concerning the incident to the Oregon agency having primary jurisdiction over the area in which the incident occurred.

100.3 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).

100.4 CONSTITUTIONAL REQUIREMENTS

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

100.4.1 REVISIONS

Enacted: December 15, 2007

Revised: April 29, 2009

Revised:August 3, 2015

Revised: May 23, 2016

Revised:March 1, 2017

Revised:August 8, 2017

Revised: September 17, 2018

Revised: June 19, 2020

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Direction

101.1 PURPOSE AND SCOPE

The Hayward Police Department has a written plan that defines the authority of the Chief of Police and establishes the chain of command and supervisory accountability to provide employees with a clear understanding of operating constraints and organizational expectations.

101.1.1 ACCREDITATION STANDARDS

This policy pertains to the following CALEA Standards: 12.1.1, 12.1.2, 12.1.3, 12.1.4, 33.5.2, 41.1.2, 42.2.4

101.2 RESPONSIBILITY FOR DIRECTION AND CONTROL

The Chief of Police has the sole authority and responsibility for the management, direction, administration and control of the operation of the Police Department. (Government Code § 38630(a))

101.3 COMMAND ORDER OF PRECEDENCE AND PROTOCOL

When the Chief of Police is absent, the order of precedence for command authority is the Patrol Captain. In case of incapacitating injury to, or death of the Chief of Police, the Patrol Captain is responsible for the operation of the Department until the City Manager names a replacement. The echelon of command for the City of Hayward is as follows:

- Chief of Police
- Captain
- Lieutenant
- Sergeant

In the event of a planned absence, the Chief of Police will name an Acting Chief of Police. In the event no Acting Chief of Police is appointed, the line of succession, in the absence of the Chief of Police is as follows:

- Patrol Captain
- Special Operations Captain
- Investigations Captain
- Lieutenant by seniority in rank
- Sergeant by seniority in rank

Command protocol in situations involving personnel of different offices or sections engaging in a single operation is as follows:

(a) The command structure always follows the chain of command.

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(b) Whenever the command structure is not easily distinguishable by rank, responsibility of command remains with the command officer having primary functional responsibility.

(c) Whenever command structure is easily distinguishable by rank, but the command officer having primary functional responsibility is of lower rank; the responsibility of command remains with the highest ranking officer.

(d) Primary functional responsibility means matters that fall within an officer's normal responsibilities and duties.

101.4 REQUIREMENT TO OBEY LAWFUL ORDERS

Employees must promptly obey any lawful orders, or directives of a supervisor. This includes orders or directives from a superior that an employee of the same or lesser rank relays. If an employee receives a conflicting order or directive, the employee must respectfully call the conflict to the attention of the supervisor giving the last order. If the supervisor giving the last order does not change the order, the employee must obey the last order and is not responsible for disobedience of the first order.

101.4.1 UNLAWFUL ORDERS

Employees must never obey any order that they know or should know would require them to commit any illegal act. If in doubt as to the legality of an order, employees must request the issuer to clarify the order or to confer with higher authority. Any employee who disobeys or disregards a supervisor's lawful order or directive, verbal or written, is subject to disciplinary action.

101.5 INTEROFFICE COMMUNICATION AND MEETINGS

It is the policy of the Hayward Police Department to conduct regular meetings at all levels of command within the organization, to maintain an effective communications network and promote cooperation throughout the organization. In addition to formal meetings, non-patrol employees should take opportunities to attend briefings and all employees should read Department informational publications.

101.5.1 DEPARTMENT MEETINGS

The Chief or his/her designee may call a meeting of all personnel at his/her discretion. When an employee feels a meeting of all Department personnel is necessary, he may make a written request for such meeting to the Chief through the chain of command.

101.5.2 COMMAND STAFF MEETINGS

The Chief's Management Staff Meetings are generally held once per week. The attendees of these meetings include: Division Commanders, Support Services Manager, Personnel and Training Manager, Budget Analyst, Crime Analyst, Police Program Analyst and any other member invited on specific topics.

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Direction

101.5.3 FULL STAFF MEETINGS

The Full Staff Meeting includes all supervisory and command staff members, and at the discretion of the Chief of Police may include the Hayward Police Officer Association President or Vice President. Normally these meeting occur on a semi-annual basis. Other Department members may be invited regarding specific topics discussed. The Chief's secretary or designee is assigned to take minutes. The Chief or his/her designee reviews the minutes for accuracy and content before publication and distribution occurs.

101.5.4 PROJECT MANAGEMENT TEAM MEETINGS

Project Management Team Meetings generally occurs on the second and fourth Tuesday of the month. Supervisory, except for patrol sergeants, and command staff members that are working during the time of the meeting are expected to attend.

101.5.5 MANAGER/SUPERVISOR MEETINGS BY DIVISION

The Department supports the use of meetings among managers and supervisors of each Division communicating policy, procedure, and information pertinent to efficient operations. Managers and supervisors attending such meetings are those who must carry out and oversee the practical application of such policies specific to operations in the division. Coordination, scheduling and composition of manager meetings, supervisor meetings, or combined manager/supervisor meetings are at the discretion of the Division Commander and his or her designees, with the following stipulations:

- Patrol Watch Commander meetings occur monthly
- Supervisor meetings are generally held quarterly

All managers/supervisors must attend unless his or her manager excuses them or extenuating circumstances exist.

101.5.6 LABOR MANAGEMENT MEETINGS

The Chief supports the use of Labor Management meetings as a tool to maintain labor management relations and open communication. These meetings are scheduled monthly between the Chief of Police and Captains with the Hayward Police Officer Association Board of Directors.

101.5.7 BRIEFINGS

At the beginning of each shift, Patrol Supervisors brief their personnel. Watch Supervisors are responsible to provide information from the Line-up Box, Records Management System, Crime Analysis, Personnel Orders, Special Orders, Training Bulletins, memorandums, and various meeting minutes as may be available and pertinent. Briefings should target 30 minutes as a maximum length. The briefing should have a standard agenda that quickly disseminates information.

During briefings Patrol Supervisors should be advised of any pending calls. If an officer is dispatched to a call before the briefing is concluded, the supervisor should make efforts to contact

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that officer later in the shift to pass on the missed information. Briefings are primarily a patrol function. However, briefings are open to all personnel with business.

Other Divisions and/or Bureaus Supervisors will provide briefings to their personnel in similar fashion to that of Patrol on regular dates and times as they deem appropriate.

101.6 EMAIL COMMUNICATIONS

The Hayward Police Department encourages the use of email to aid in communicating internally and externally in an efficient manner. However, information overload is always a problem. Department members should refrain from sending unnecessary emails and choose recipients narrowly (refer to the Electronic Mail Policy).

The Hayward Police Officer's Association is welcome to use Department email for member notifications of events and non-private matters.

101.7 REVISIONS

Enacted: July 3, 2009

Revised: September 19, 2014

Revised: May 23, 2016

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Chief Executive Officer

102.1 PURPOSE AND SCOPE

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

102.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 12.1.1

102.1.2 CHIEF EXECUTIVE OFFICER REQUIREMENTS

Any chief executive officer of this [department/office] 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).

102.2 REVISIONS

Enacted: December 15, 2007

Revised:April 29, 2009

Revised:August 3, 2015

Revised: May 23, 2016

Revised: May 23, 2016

Revised: February 8, 2021

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Oath of Office

103.1 PURPOSE AND SCOPE

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

103.1.1 ACCREDITATION STANDARDS

This policy pertains to the following CALEA Standards: 1.1.1

103.2 OATH OF OFFICE

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

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

103.3 WRITTEN OATH OF OFFICE

This written Oath of Office is administered by the City Clerk on the first practicable day after employment and before the new sworn officer becomes engaged in police duties. The written Oath of Office is maintained in the employees personnel file.

103.4 PUBLIC ORAL OATH OF OFFICE

Sworn officers may be scheduled to attend a City Council Meeting or other public event to perform the ceremonial Oath of Office, publicly proclaiming their Oath of Office. This appearance should occur within the first 90 days of their employment. The Oath is administered by the City Clerk, or other appropriate public official.

103.5 REVISIONS

Enacted: December 15, 2007

Revised: April 29, 2009

Revised: February 7, 2010

Revised: May 23, 2016

Revised: March 1, 2017

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Jurisdiction and Geographical Boundaries

104.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the geographical boundaries of the City of Hayward and define jurisdictional responsibilities.

104.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 2.1.1, 2.1.2

104.2 BOUNDARIES OF JURISDICTION

The Hayward City Engineer maintains a Geographic Information System including a map that delineates the specific geographical boundaries of the agency's jurisdiction. An electronic version of that map is accessible through the City Computer Network and a printed version is maintained in the Communications Center. The official map provided by the City of Hayward Engineering Department delineates the geographical boundaries of the City of Hayward. The City of Hayward is generally situated between the City of Union City to the South, Unincorporated Alameda County to the North, and the City of Pleasanton to the East.

104.2.1 CONCURRENT JURISDICTION RESPONSIBILITY AND AGREEMENTS

It is the intent of this directive to identify basic shared responsibilities of the Hayward Police Department and other policing agencies as they relate to overlapping, shared or concurrent police services delivered within the geographic boundaries of the City of Hayward. In that regard, the Hayward Police Department works cooperatively with the following agencies: Alameda County Sheriff's Office, California Highway Patrol, Union City Police, Union Pacific Railroad Police, California State University East Bay Police, Bay Area Rapid Transit (BART) Police, East Bay Regional Parks (EBRP) Police, and the California Department of Fish and Game. It is the policy of the Hayward Police Department to coordinate its efforts with these concurrent agencies as outlined below:

- **Alameda County Sheriff's Department**: Our primary relationship with the Alameda County Sheriff's Department is booking, housing and care of inmates whose custody is transferred from the Hayward Police Department to the Sheriff's Department, and the services of the County Coroner's Office. Criminal investigations within the Hayward city limits shall be the responsibility of the Hayward Police Department, regardless of any assistance from the Sheriff's Department, except as authorized by the Chief of Police. The Chief of Police and the Alameda County Sheriff may constitute an operational agreement for policing Hayward Unified School District sites located within county jurisdiction.
- **California Highway Patrol**: The Hayward Police Department will investigate all criminal acts within the geographic jurisdiction of the City of Hayward, including those occurring on the State Highways and Freeways in the City, with the exception of driving related crimes routinely handed by the California Highway Patrol (i.e. DUI, Hit and

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Run, etc.) The Department will provide assistance to the California Highway Patrol, as needed, when called upon to do so due to unusual events on the State roads.

- **Union City Police Department**: The Chiefs of Police of the Hayward and Union City Police Departments may constitute an operational agreement for policing New Haven Unified School District sites located within City of Hayward jurisdiction.
- **Union Pacific Railroad**: The Hayward Police Department will investigate all criminal acts within its jurisdiction, including those occurring railroad rights of way within the city. The Hayward Police Department will provide assistance to the Union Pacific Railroad Police Department, as needed, when called upon to do so due to unusual events on the rail system.
- **California State University East Bay**: The California State University East Bay lies within the City of Hayward. The University Police Department is principally responsible for providing public safety services for the campus. The Chiefs of Police of the City of Hayward and University Police Departments may constitute an operational agreement for rendering resources and aid for special events, and for handling incidents occurring on campus that require substantial investigative or other resources.
- **Bay Area Rapid Transit (BART)**: The Bay Area Rapid Transit (BART) is principally responsible for providing public safety services at BART properties and rights of way located within the geographic boundaries of the City of Hayward. The Hayward Police Department will provide assistance to the BART Police Department, as needed, when called upon to do so due to unusual events on their properties and rail system.
- **East Bay Regional Parks**: The East Bay Regional Parks District (EBRP) is principally responsible for providing public safety services at regional parks properties and facilities within the geographic boundaries of the City of Hayward. The Hayward Police Department will provide assistance to the EBRP Police Department, as needed, when called upon to do so due to unusual events on their properties.
- **California Fish and Game**: California Fish and Game maintains a full service police department, which responds to and handles all fish and game incidents that occur on state property located within the geographic boundaries of the City of Hayward. The Hayward Police Department will provide assistance to California Fish and Game Wardens, as needed, when called upon to do so due to events requiring their services.

Usually the first agency upon the scene, and having jurisdiction, has responsibility and is in charge. The Hayward Police Department recognizes this responsibility and either assumes jurisdiction on that basis or provides assistance to other agencies, as they require.

104.3 REVISIONS

Enacted: July 21, 2009

Revised: May 23, 2016

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Policy Manual

105.1 PURPOSE AND SCOPE

The manual of the Hayward 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.

105.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.2.7, 12.2.1, 12.2.2, 82.3.5

105.1.2 DISCLAIMER

The provisions contained in this Policy Manual are not intended to create an employment contract, nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Hayward Police Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the City, its officials or employees. Violations of any provision of any policy contained within this manual shall only form the basis for Departmental administrative action, training or discipline. The Hayward Police Department reserves the right to revise any policy content, in whole or in part.

105.2 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.

105.3 AUTHORITY

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

105.3.1 COMMAND STAFF

Command Staff shall consist of the following:

- Chief of Police

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- Patrol Captain
- Investigations Captain
- Special Operations Captain
- Support Services Manager

Command Staff shall review all recommendations regarding proposed changes to the Policy Manual at Command Staff meetings or via email correspondence. They shall then review and make a decision on whether or not to approve the proposed changes.

105.3.2 REQUESTING A REVISION OF DEPARTMENTAL POLICIES

Any employee may suggest revisions of the contents of the Policy Manual if he/she believes that it would increase the efficiency or effectiveness of the Department. Employees who suggest revisions of the contents of the Policy Manual in furtherance of performing essential job functions shall submit a written memorandum and transmittal form through his/her chain of command describing the need and justification. If the Commander or Support Services Manager receiving the request determines that it is unnecessary or inappropriate, he/she will notate that on the transmittal form with an explanation. If the Commander or Support Services Manager agrees that the suggestion has potential merit, it will then be submitted to Command Staff for review and approval. Regardless of what decision is made, a copy of the transmittal form and associated documents will be forwarded back to the originator for his/her information. Command Staff will review the request for:

- Completeness
- Fiscal accountability
- Conflict with existing
- Compatibility with existing Departmental procedures
- Other factors based on the item(s) requested, as appropriate

If Command Staff rejects the request, the Commander or Support Services Manager will return the form to the originator with an explanation and/or request for the correction of deficiencies, as appropriate. If/when corrections are requested, it will be resubmitted following the above listed format. When Command Staff approves a revision of the Policy Manual, it will be disseminated to Departmental personnel in accordance with this policy.

105.4 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.

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CFR - Code of Federal Regulations.

City - The City of Hayward.

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

Department/HPD - The Hayward Police Department.

DMV - The Department of Motor Vehicles.

Employee - Any person employed by the Department.

Juvenile- Any person under the age of 18 years.

Manual - The Hayward Police Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the Hayward 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 Hayward 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.

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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.

105.4.1 ACCREDITATION STANDARDS SUBSECTION LOCATION
Each section of this Manual that pertains to an Accreditation Standard shall contain a subsection titled Accreditation Standards, as seen in this policy. The Accreditation Standard subsection should be located as the first available subsection under Purpose and Scope.

The Accreditation Standards should be listed horizontally and separated by a comma and space.

105.4.2 REVISION DATES AND SECTION LOCATION
The last section of each policy shall be titled "Revisions." The first entry of any newly drafted policy in the Revision Section shall be "Enacted" followed by the date. The next and subsequent entries shall be "Revised" followed by a date. The entries shall be made horizontally and separated by a semi-colon.

The date format is as follows: April 1, 2009

Each time a revision is made to a section of this Policy Manual after April 1, 2009, the revision shall be logged in the Revision Section and a description of the revision will be disseminated to employees as listed in the Revisions to Policies section of this policy.

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

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

105.6 DISTRIBUTION OF POLICY
It is the intent that this Policy Manual and the referenced procedure manual will be distributed broadly in a digital format. A digital version of the Policy Manual will be made available via Lexipol for access by all employees from any technological device and any location with internet capabilities. No changes shall be made to policy or procedure without authorization from the Chief of Police or his or her designee.

Existing policies, procedures and directives can be revised, modified or rescinded but never purged. The Administrative Analyst under the Office of the Chief is responsible for reviewing proposed or revised policies, procedures, rules and regulations prior to their promulgation

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to ensure they do not contradict other existing agency directives or applicable law. This is accomplished by:

(a) Reviewing each proposed or revised directive for content, formatting and contradictions to existing directives.

(b) Reviewing each proposed or revised directive for content, formatting and contradictions to existing State or Federal Law.

(c) Consultation with the City Attorney, as appropriate.

The Administrative Analyst under the Office of the Chief is also responsible for the distribution of each new policy update. Upon the completion of each policy update, both policy and procedure will be archived via Lexipol and by the Administrative Analyst under the Office of the Chief.

Upon initial hire, a new fulltime employee shall be provided access to a copy of the Policy Manual and Procedure Manual in its digital format. All employees shall be notified of new updates to policy or procedure via email.

105.6.1 RELEASE OF NEW VERSIONS AND ARCHIVE OF OLD VERSIONS

The release of new Policy shall occur as needed based on changing best practice and laws. The release of any new version shall be accompanied by a Policy Update Key outlining, in detail, the changes in the newest version of the Policy Manual. All employees shall be notified of each release in a method that requires the employee to acknowledge receipt and confirm understanding of the release. No version shall be released without approval of the Chief of Police. The details of the release will be completed by Administrative Analyst in the Office of the Chief.

All revisions of this Manual shall be recorded. Each outdated manual shall be archived in a suitable manner to assure long-term reference. At minimum, two digital versions shall be stored. The two digital copies shall be stored in separate locations.

105.7 PERIODIC REVIEW OF THE POLICY MANUAL

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

105.8 REVISIONS TO POLICIES

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

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

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

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

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Policy Manual

105.9 REVISIONS

Enacted: December 15, 2007

Revised: August 19, 2008

Revised: April 29, 2009

Revised: July 8, 2009

Revised: August 13, 2010

Revised: March 16, 2011

Revised: April 25, 2012

Revised: April 9, 2013

Revised: April 22, 2014

Revised: August 1, 2014

Revised: May 23, 2016

Revised: March 1, 2017

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Chapter 2 - Organization and Administration

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Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

The organizational structure of this Department is designed to create an efficient means to accomplish our mission and goals and to provide for the best possible service to the public. Within this structure, personnel have the authority to make decisions to effectively execute their responsibilities and remain accountable for those decisions. The organizational structure also clearly defines a chain of command so each employee has only one supervisor and specific positions are responsible for each Departmental component.

200.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 11.1.1, 11.1.2, 11.2.1, 11.2.2, 11.3.1, 11.3.2

200.2 DIVISIONS

The Chief of Police is responsible for administering and managing the Hayward Police Department. There are five Divisions in the Police Department as follows:

- Office of the Chief
- Patrol
- Special Operations
- Investigations
- Support Services

200.2.1 OFFICE OF THE CHIEF

The Internal Affairs, Crime Analysis, Accreditation and Personnel and Training units report directly to the Chief of Police.

200.2.2 PATROL

The Patrol Division is commanded by a Captain whose primary responsibility is to provide general management direction and control of all sworn personnel assigned to carry out patrol functions, which includes officers, sergeants and watch commanders.

200.2.3 SPECIAL OPERATIONS

The Special Operations Division is commanded by a Captain whose primary responsibility is to provide general management direction and control for the Special Operations. The Special Operations Division consists of District Command Operations, Crime Prevention Unit, Traffic Enforcement Unit, Reserve Officers, Volunteer Programs, Downtown Officers, K-9 unit, and the Special Response Unit.

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200.2.4 INVESTIGATIONS

The Investigation Division is commanded by a Captain whose primary responsibility is to provide general management direction and control for the Investigation Division. The Investigation Division consists of Criminal Investigation Bureau, Narcotics Unit, Special Duty Unit, District Attorney Liaison, County Narcotic Task Force Officers, Public Order Crimes Bureau, Vice/Compliance Unit, Youth and Family Services Bureau, School Resource Officer Program and Press Information Officer.

200.2.5 SUPPORT SERVICES

The Support Services Division is commanded by the Support Services Manager, whose primary responsibility is to provide general management direction and control for the Support Services Division. The Support Services Division consists of Communications, Jail, Crime Scene Unit, Property and Evidence Bureau, Records Bureau, and Animal Services.

200.3 COMMAND PROTOCOL

200.3.1 SUCCESSION OF COMMAND

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

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

(a) Patrol Commander

(b) Special Operations Commander

(c) Investigations Division Commander

(d) Watch Commander

200.3.2 UNITY OF COMMAND

(a) Commensurate authority accompanies the delegation of supervisory/command responsibility. Relief command personnel and acting supervisors assume the same responsibility and command the same respect and response to command as the regular supervisor. It is not mandatory that the supervisors always designate the senior employee as the acting commander/supervisor. The appointing authority must assign the employee he or she feels can best carry out the responsibilities of the position.

(b) If a supervisor or commander is absent without having made the appointment of an acting commander/supervisor and a supervisory decision becomes necessary, the senior highest ranking employee assumes authority and becomes responsible accordingly.

(c) When delegating authority, each employee is fully accountable for his decision to delegate authority, and also for the failure to delegate authority.

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200.3.3 SUPERVISORY ACCOUNTABILITY FOR EMPLOYEES
All commanders, managers, supervisors and coordinators, or those delegated to such responsibilities, are responsible for the performance of employees under their immediate control.

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

200.4 REVISIONS
Enacted: December 15, 2007

Revised: February 18, 2009

Revised: May 9, 2009

Revised: February 7, 2010

Revised: September 19, 2014

Revised: May 23, 2016

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Departmental Directive

201.1 PURPOSE AND SCOPE

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

201.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 12.2.1, 12.2.2, 82.3.5

201.1.2 DEPARTMENTAL DIRECTIVE PROTOCOL

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

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

Any Departmental Directives issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year, followed by the number "01" For example, 12-01 signifies the first Departmental Directive for the year 2012.

201.2 RESPONSIBILITIES

201.2.1 STAFF

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

201.2.2 CHIEF OF POLICE

The Chief of Police shall issue all Departmental Directives.

201.3 ACCEPTANCE OF DEPARTMENTAL DIRECTIVES

All employees are required to read and obtain any necessary clarification of all Departmental Directives. All employees are required to acknowledge electronically when they are in receipt of and review any new Departmental Directives. Employee acknowledgement records can be accessed and are maintained via Lexipol.

201.4 REVISIONS

Enacted: December 15, 2007

Revised: May 9, 2009

Revised: April 25, 2012

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Departmental Directive

Revised: August 1, 2014

Revised: May 23, 2016

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Emergency Management Plan

202.1 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).

202.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 46.1.1, 46.1.2, 46.1.8, 46.1.9, 46.2.6, 46.2.7

202.2 ACTIVATING THE EMERGENCY PLAN

The Emergency Management Plan is maintained and edited by the Fire Chief on an annual basis. The Emergency Management Plan can be activated on the order of the E.O.C. Director. In addition, the Emergency Management Plan can be activated by order of the Chief of Police, a Division Commander, or the highest ranking official on duty in response to a major emergency or critical incident. A major emergency is defined as an incident that exceeds the capabilities or resources of the Department at hand or available at that time.

Other Departments, such as Fire of Public Works may activate the Emergency Management Plan. Upon activation all members of the police department called upon are required to support the response to an emergency.

202.2.1 RECALL OF PERSONNEL

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

202.2.2 UPDATING OF THE EMERGENCY MANAGEMENT PLAN

The Chief of Police or designee shall review and update, if necessary, 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).

202.3 LOCATION OF THE PLAN

A printed plan for employees is available in the Communications Center and in the Mobile Command Vehicle. Electronic versions have been disseminated to Command Staff, Managers and Supervisors in the Department and copies will be available on their work station computers. All supervisors should familiarize themselves with the Emergency Management Plan and what roles police personnel will play when the plan is implemented. An electronic version of the

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Emergency Management Plan is maintained on the Department's intranet system under the heading "Emergency Management Plan."

202.4 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.

202.5 PRE-PLANNED CRITICAL EVENTS

The Division Commanders are responsible to assure that the planning and execution of pre-planned critical events follow the procedures established. These events include, but are not limited to:

(a) Special Events;

(b) Dignitary Protection;

(c) High-Risk or Critical Warrant Services; and

(d) Other Planned Complex Operations.

202.6 QUARTERLY INSPECTIONS

The Hayward Police Department will complete a documented quarterly inspection for operational readiness of equipment designated for use in support of the cities Disaster and Critical Events Plan.

202.7 ANNUAL AND BIENNIAL TRAINING

The Hayward Police Department shall conduct annual training on the agency's "All Hazard" plan for affected agency personnel. The annual training will be documented and maintained in the Personnel and Training Bureau.

The Hayward Police Department shall document biennial training consisting of a tabletop or full-scale exercise to assess the agency's role and capabilities in the "All Hazard Plan." The biennial training will be documented and maintained in the Personnel and Training Bureau.

202.8 REVISIONS

Enacted: December 15, 2007

Revised: May 9, 2009

Revised: August 5, 2009

Revised: February 7, 2010

Revised: August 13, 2010

Revised: March 16, 2011

Revised: April 25, 2012

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Emergency Management Plan

Revised: May 23, 2016

Revised: May 19, 2023

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Training Policy

203.1 PURPOSE AND SCOPE

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

203.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 33.1.1, 33.1.2, 33.1.3, 33.1.4, 33.1.5, 33.1.6, 33.1.7, 33.2.3, 33.5.3, 33.5.4.

203.2 PHILOSOPHY

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

203.3 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.

203.4 OBJECTIVES

The objectives of the Training Program are to:

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

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

(c) Provide for continued professional development of department personnel

203.5 TRAINING PLAN

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

- Legal Updates
- State Mandated Training
- Critical Issues Training

All sworn personnel will complete an annual retraining program, including legal updates. The annual retraining will consist of Continuous Professional Training (CPT) and Perishable Skills

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Program (PSP) courses mandated by the California Commission for Peace Officer Standards and Training (POST).

All civilian positions within the Hayward Police Department will receive initial and ongoing training commensurate with their responsibilities. Such training should stress not only the skills necessary to perform technical aspects of their jobs, but also the importance of the link they provide between the citizens of Hayward and the Department, which often shapes a citizen's opinion of the Department. These positions include, but are not limited to:

- Administrative Analyst
- Crime Analyst
- Police Records Clerk
- Community Services Officer
- Crime Prevention Specialist
- Secretary
- Family Counselor
- Administrator
- Communications Supervisor
- Records Supervisor
- Jail Supervisor
- Crime Scene Technician
- Communications Operator
- Shelter Operations Supervisor
- Animal Care Officer
- Animal Care Attendant

All newly appointed civilian personnel shall receive information regarding:

- The Department's role, purpose, goals, policies, and practices
- Working conditions and regulations; and
- Responsibilities and rights of employees

203.5.1 DEPARTMENT LESSON PLANS

All instructors conducting training courses for Departmental personnel must have a lesson plan for each course of instruction. Lesson plans shall be approved by the manager of the unit conducting the training and once approved shall be routed to the Training Manager to be filed with the training records. Lesson plans should include the following:

- Training objectives, describing performance/job-related relevance

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- Course outline/content of training
- If applicable, any practical or written tests to be given

203.5.2 REMEDIAL TRAINING

If assigned training is not completed satisfactorily or practical/written tests not passed, remedial training shall be given as soon as practical. Remedial training may include a Personal Improvement Program (P.I.P.), if appropriate. Remedial training should be provided until such time that the employee can satisfactorily pass the required training, or he or she has demonstrated a failure to respond to the training provided. If an employee refuses or fails to respond to remedial training they may be subjected to the provisions of the Conduct of Standards and Performance Improvement Plans policies.

203.5.3 TRAINING ATTENDANCE

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:

(a) Court Appearances.

(b) Vacation.

(c) Sick leave.

(d) Physical limitations preventing the employee's participation.

(e) Emergency situations.

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

(a) Notify his/her supervisor as soon as possible but no later than one hour prior to the start of training.

(b) Make arrangements through his/her supervisor and the Training Manager to attend the required training on an alternate date.

203.5.4 DEPARTMENT TRAINING RECORDS

The Training Manager will maintain a file containing of all training records of each employee to include the following:

(a) All training-lesson plans conducted by the Hayward Police Department.

(b) Training attendance forms with the employee and the instructor's signature indicating the employee has satisfactorily completed the training.

(c) Test and test scores of each employee who completed training, if appropriate.

(d) An attendance roster that indicates the course name and date with employee and instructor signatures.

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(e) For departmental or outside training, any certificates of completion provided to the employee.

The Training Manager will update records of employee training following their participation in any training program.

203.5.5 TRAINING NEEDS ASSESSMENT

The Training Unit will conduct an annual training needs assessment of the Department. The needs assessment will be reviewed by staff. Upon approval by the staff, the needs assessment will form the basis for the training plan for the calendar year. This annual training needs assessment will be conducted by the Personnel and Training Administrator, or training domain manager (e.g., Defensive Tactics, Range Coordinator) under the direction of the Training Manager.

203.5.6 BASIC ACADEMY ASSIGNMENTS

Personnel hired as a Police Trainee and assigned to attend a California P.O.S.T. certified law enforcement basic academy are referred to as "police recruits," and are not sworn peace officers. Once assigned to attend the academy, police recruits are under the direct supervision of academy staff. The Department Training Manager or his designee will serve as the liaison between the Department and the Academy.

203.5.7 CALEA ACCREDITATION TRAINING

The Personnel and Training Bureau will ensure that all personnel are familiar with accreditation and its impact on the Hayward Police Department. The purpose of this training is to familiarize Department members in all areas of accreditation including, but not limited to, history and background, the agency's involvement in the process including the self-assessment phase, the goals and objectives of accreditation and the advantages and impacts on the organization. Agency personnel shall receive this training by the accreditation manager as follows:

- To all newly hired agency personnel within thirty days of their date of hire
- To all agency personnel during the self-assessment phase associated with achieving initial accreditation
- To all personnel prior to an onsite assessment

Due to the specialized role, any agency personnel assigned to the role of accreditation manager shall receive specialized accreditation manager training within one year of appointment. The newly selected manager should also attend at least one CALEA Conference during the current award period for additional training as well as participate in the local Police Accreditation Coalition (PAC).

203.6 OFFSITE TRAINING PAID BY THE DEPARTMENT

An employee attending approved offsite training paid for by the Department will complete the departmental Offsite School Request form. Upon completion of the training, it is the responsibility of the employee to submit documentation of completion of the training course to the Training Bureau. The Training Manager will maintain all submitted training records in the employee's training file.

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203.6.1 TRAINING COSTS

When an employee is assigned training outside the Department, pursuant to this policy, the Department will pay for all expenses associated with the training. The Training Manager or his/her designee is responsible for coordinating travel arrangements, training expense advances and reimbursements (if any). The Training Manager should determine if a City vehicle is to be used for travel, or if mileage reimbursement is authorized. Mileage reimbursement guidelines outlined in the City Rules and Regulations will be followed.

203.7 OFFSITE TRAINING PAID BY THE EMPLOYEE

An employee attending departmentally approved training, paid for by the employee, may be allowed to adjust their work schedule to attend such training if the following conditions apply:

(a) The training must be relevant to the officer's assignment and must be an approved training course.

(b) The training course must be approved by the employee's supervisor, manager and the division commander.

(c) The dates the employee attends the class and the dates the employee adjusts off must be in the same pay period.

(d) No overtime is necessary to backfill for the officer attending the training.

All costs and arrangements associated with the training shall be the responsibility of the employee.

Employees may adjust up to one week (40 hours) per calendar year to attend departmentally approved training pursuant to this policy. Employees that work a 12-hour or 12.5-hour shift that attend a one week (40 hour) school will only be adjusted off for their work week, 36 hours or 37.5 hours, and shall not be compensated for the remaining hours.

Officers attending courses less than one week in duration will be adjusted hour for hour. Employees attending a course that is fewer hours than their work week will work the remaining hours on their assigned shift to complete their work week. If the employee attends a course that is on their assigned work days, but is less hours than their assigned work week, the employee may use vacation or comp time to make up their remaining hours. Or, with approval of their supervisor or manager, they may work on another shift/and or day, within the same pay period as the self-sent course, to make up for their remaining hours.

203.7.1 PROCEDURE

Once an employee receives approval from their immediate supervisor to attend training pursuant to this policy, then the employee shall complete the departmental School Request form. The School Request form shall be routed through the employee's chain of command to the employee's Division Commander.

If approved, the Division Commander will forward the School Request form to the Personnel and Training Bureau to track and record the time the employee used during the calendar year.

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Upon returning from the school, the employee shall provide a copy of any certificate received as a result of the training to the Personnel and Training Bureau to be placed into the employee's training file.

203.8 TRAINING COMMITTEE

The Training Manager may establish a Training Committee, which will serve to assist with identifying training needs for the Department.

The Training Committee shall be comprised of at least three members, with the senior ranking member of the committee acting as the chairperson. Members should be selected based on their abilities at post-incident evaluation and at assessing related training needs. The Personnel and Training Manager may remove or replace members of the committee at his/her discretion.

If established, the Training Committee should review certain incidents to determine whether training would likely improve future outcomes or reduce or prevent the recurrence of the undesirable issues related to the incident. Specific incidents the Training Committee should review include, but are not limited to:

(a) Any incident involving the death or serious injury of an employee.

(b) Incidents involving a high risk of death, serious injury or civil liability.

(c) Incidents identified by a supervisor as appropriate to review to identify possible training needs.

The Training Committee should convene on a regular basis as determined by the Personnel and Training Manager to review the identified incidents. The committee shall determine by consensus whether a training need exists and then submit written recommendations of its findings to the Personnel and Training Manager. The recommendation should not identify specific facts of any incidents, such as identities of employees involved or the date, time and location of the incident, but should focus on the type of training being recommended.

The Personnel and Training Manager will consider the recommendations of the committee and determine what training should be addressed, taking into consideration the mission of the Department and available resources.

203.9 PERSONNEL AND TRAINING ADMINISTRATOR

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

203.10 TRAINING RESTRICTION

The Personnel and Training Administrator 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)).

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203.11 REVISIONS

Enacted: December 15, 2007

Revised: April 28, 2009

Revised: August 13, 2010

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Revised: July 9, 2013

Revised: May 23, 2016

Revised: January 1, 2022

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Law Enforcement Services Agreement

204.1 PURPOSE AND SCOPE

The purpose of this policy is to provide clear directives for the preparation of written agreements governing law enforcement services provided by the Hayward Police Department to outside agencies or entities. Written agreements shall be required anytime the Hayward Police Department undertakes a contractual obligation to provide City resources for law enforcement purposes to any other agency or entity.

204.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 3.1.1, 3.1.2

204.2 EMPLOYMENT RIGHTS OF ASSIGNED PERSONNEL

Any contract for law enforcement services shall be drafted and implemented to protect the employment rights of assigned personnel. Participation in contract law enforcement assignments shall not penalize participating employees or jeopardize promotional opportunities, training opportunities, or fringe benefits.

204.2.1 PRINCIPLES OF CONTRACT CONSTRUCTION FOR LAW ENFORCEMENT SERVICES CONTRACTS

All contracts for law enforcement services shall be written agreements including, at a minimum, the following terms, conditions, and information:

(a) A statement of the specific services to be provided;

(b) Specific language dealing with financial agreements between the parties;

(c) Clear statement of the records to be maintained by each party concerning the performance of services by the provider agency;

(d) Language dealing with the duration, modification, and termination of the contract;

(e) Specific language dealing with risk management and legal contingencies, including insurance and indemnification of parties;

(f) Stipulation that the provider agency maintains control over its personnel;

(g) Specific arrangement for the use of equipment and facilities; and

(h) A procedure for review and revision, if needed, of the agreement.

204.3 RECOMMENDATION AND APPROVAL

All contracts for law enforcement services shall be reviewed and authorized by the Chief of Police and the City Attorney for a recommendation to the City Manager. Once approved by the City Manager for City Council consideration, the item will be placed on the next available City Council agenda. No contract for law enforcement services shall be valid until approved by resolution of the City Council of the City of Hayward.

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Law Enforcement Services Agreement

204.4 MULTI-JURISDICTIONAL INVESTIGATIVE TASK FORCES

The Hayward Police Department allows for participation in formal, long term, multi-jurisdictional investigative Task Forces as staffing levels permit. Task Force activities require a Memorandum of Understanding, which will include:

(a) The Purpose

(b) Defining Authority, Responsibilities, and Written Agreements; and

(c) Evaluating Results and the need for Continued Operation(s)

The criteria for the use of Task Forces shall be specified in the memorandum of understanding, along with the kind of offenses for which they should be used and the procedures for control and evaluation should be outlined.

204.5 REVISIONS

Enacted: August 12, 2009

Revised: August 13, 2010

Revised: May 23, 2016

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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. E-mail is a communication tool available to employees to enhance efficiency in the performance of job duties and is to be used in accordance with generally accepted business practices and current law (e.g., California Public Records Act). Messages transmitted over the e-mail system must only be those that involve official business activities or contain information essential to employees for the accomplishment of business-related tasks and/or communication directly related to the business, administration, or practices of the Department.

205.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 26.1.3

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 E-MAIL

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

E-mail messages addressed to the entire Department are only to be used for official business related items that are of particular interest to all users and must be approved by the Chief of Police or a 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 e-mail, name and/or password by others.

Employees may access their official Department e-mail remotely, while off duty, through the City's e-mail exchange server. Employees making access to e-mail, either remotely or locally in

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the police building, shall not forward confidential information to unauthorized persons nor allow unauthorized persons to view confidential information.

205.4 MANAGEMENT OF E-MAIL

Because the e-mail system is not designed for long-term retention of messages, e-mail that the employee desires to save or that becomes part of an official record should be printed and/or stored in another database. Users of e-mail are solely responsible for the management of their mailboxes. Messages should be purged manually by the user at least once per week. All messages in excess of two months (60 days) will be deleted at regular intervals from the cities server computer.

205.5 REVISIONS

Enacted: December 15, 2007

Revised: August 19, 2008

Revised: May 9, 2009

Revised: August 13, 2010

Revised: May 23, 2016

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Administrative Records

206.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the types of records maintained in the Office of the Chief of Police and the procedures for handling such records.

206.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 32.1.6, 52.1.2, 82.3.5

206.2 TYPES OF RECORDS MAINTAINED

The types of records maintained in the Office of the Chief of Police are described in the Procedure Manual.

206.3 METHODS OF STORAGE

The Secretary to the Chief of Police is responsible for keeping current descriptions of methods of record storage in that office. It is the intention that efforts should be made to handle records most efficiently and in an automated, digital format where possible.

206.4 PURGE RESPONSIBILITY

The Secretary to the Chief of Police is responsible for carrying out purge duties for records maintained within that office. Records shall be retained in accordance with State and Local law.

206.5 REVISIONS

Enacted: August 12, 2009

Revised: May 23, 2016

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Administrative Communications

207.1 PURPOSE AND SCOPE

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

207.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 16.1.1

207.2 PERSONNEL BULLETINS AND NEWSLETTERS

Personnel Bulletins 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.

In addition, monthly newsletters will be issued by the Chief of Police as a way to open up communications and to keep all employees abreast of Departmental business.

207.3 CORRESPONDENCE

In order to ensure that the letterhead and name of the Hayward Police Department is not misused, all external correspondence shall be on Department letterhead. Personnel should use Department letterhead only for official business.

207.4 SURVEYS

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

207.5 REVISIONS

Enacted: December 15, 2007

Revised: May 9, 2009

Revised: May 23, 2016

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Facility Security

208.1 PURPOSE AND SCOPE

The police facility is a secure environment as confidential information is maintained and employees must feel safe within its walls. Only authorized individuals shall be allowed to access non-public areas. Certain areas shall have higher levels of security. This policy describes the facility security plan and access level authority for secure and non-secure areas.

208.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 81.3.1, 82.1.1, 82.1.2, 82.1.6, 84.1.3

208.1.2 BUILDING SECURITY

All exterior doors to the main police building and other police department outbuildings shall remain closed and locked when not in use. The propping open of any door for any length of time is not allowed unless an identified employee monitors the entry/exit of that door at the request of a supervisor.

It shall be the responsibility of every employee to stop, and in a professional manner, question any persons in any police facility (including Animal Control), who are not readily displaying proper authorized identification or visitor identification badge. These persons should be immediately escorted to the front office and required to adhere to this Departmental policy.

Any person being subject to a Health and Safety § 11590 or Penal Code § 290 own recognizance booking, or any person brought into the interior of any police department building for the purposes of detention/arrest should be immediately pat searched for weapons, to include any other property the person has in his/her possession prior to any processing.

208.2 MINIMUM STANDARDS FOR ACCESS

Access to the Hayward Police Department and within the facility is controlled under the authority of the Chief of Police or his/her designee. To ensure high standards of security within the Hayward Police Department, all individuals entering the facility, building(s) and property beyond the Front Lobby must have permission and authority to enter and must adhere to one of the following:

(a) Be a current Police Department employee in good standing.

(b) Escorted by a current/authorized Police Department employee at all times.

(c) Successfully passed a "Less Than Full" background check.

(d) Successfully passed a full background check.

(e) On-duty emergency personnel responding to an actual emergency within the building (i.e., ambulance, or Fire personnel).

208.3 ACCESS LEVEL AUTHORITY

Access to the Police Department Public, Non-Public, Secured and Restricted areas are designated by "Access Level Authority," and definitions of these areas are as follows:

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Facility Security

PUBLIC AREAS: means areas that are accessible to the general public without being escorted and without having met any other requirements. These public areas are accessible during normal operating hours specific to that area and are the following:

- Front/Main Parking Lot
- Front Lobby
- Front Lobby Public Restrooms

NON-PUBLIC AREAS: means areas that are accessible to individuals having permission or authority to enter the Police Department building and property beyond those specified in the "public" area definitions. These individuals must wear an appropriate, issued visitor identification card and they must be escorted by an authorized Hayward employee at all times; or have met the requirements listed under "Non-Escorted visitors." Non-public areas of the Police Department are designated as the following areas:

- Second Floor Assembly Room
- Rear Secured Parking Lot
- Main Hallways Within The Police Department
- Employee Lunch/Break Rooms
- Line-Up Room
- Report Writing Room
- Men's and Women's Locker Rooms
- Restrooms
- Work Out Room
- All Other Non-Designated Open Areas Within The Building Including YFSB
- North and South District Offices

SECURED AREAS: means areas within the Police Department that has limited access. Only those individuals having authority shall have access to specific secured areas. These individuals may have access to certain secured areas and not others, depending upon their level of access authority. Secured areas will be limited access to only normal business operating hours for that particular area, with the exception of supervisory personnel and above, or those individuals having the specific authority to access a particular area during non-business hours. These secured areas are designated as the following areas:

- Chief of Police Office
- Command Staff Offices
- Communications Center
- Evidence Vehicle Storage Yard (VSY) Off-Site

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- Shooting Range
- Storage/Outbuildings (K9 Facilities, Traffic Bureau Shed, Departmental Sheds, Haz-Mat Shed, etc.)

RESTRICTED AREAS: means areas within the Police Department that have restricted access and access is highly controlled, regardless of supervisory status or hours of operation. Only designated individuals having authority from the Chief of Police or his/her designee shall have access to specific restricted areas. Restricted areas are designated as the following areas:

- Internal Affairs Offices
- Jail and Prisoner Processing Areas and Holding Cells
- Property and Evidence Offices and Storage Rooms
- Barnes Court Evidence Storage Facility
- Evidence Processing Center
- Server Rooms
- Radio Towers (Offsite Locations)

208.4 IDENTIFICATION

Police personnel shall wear a visible badge or an identification card while in the police building or on Departmental property. Police employee ID and door proximity cards are issued by the Personnel and Training Bureau. No employee shall lend their door proximity card or divulge any security access codes to anyone other than current and authorized employees of the Hayward Police Department.

208.4.1 ACCESS FOR VISITORS

Visitors shall be required to wear a visitor ID card visible at all times while in the police facility. Visitors will be required to provide a valid form of identification, in exchange for a Departmental issued visitors ID card. Visitor ID cards are issued by and returned to the issuing authorized employee, who will record it on a Front Counter ledger of issued visitor ID cards indicating the name, date, time and reason for the visit.

Escorted Visitors: Visitor ID cards will be color coded RED and designated by the word "VISITOR" across the front. Visitors should be escorted at all times by a Hayward Police employee.

Non-Escorted Visitors: Non-Escorted Visitor ID cards will be color coded YELLOW and designated by the words "VISITOR/NON-ESCORTED" across the front. These visitors do not need to be escorted, but must have met the requirements for "non-escorted visitors" described in this policy.

Non-Escorted Law Enforcement Visitors: Non-Escorted Visitors from outside Law Enforcement agencies who are in plain-clothes and armed will wear a Law Enforcement Visitor ID card, which will be color coded GREEN and designated as "VISITOR/LAW ENFORCEMENT." Law

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enforcement officers who are in full uniform need not wear a Visitor ID card, but should have their badge visible at all times.

Non-Police City Employees: City employees from other Departments shall wear their City ID card visible at all times. If they are not in possession of their City ID card, they should be issued a RED colored Visitor ID card by the issuing authorized employee to be visibly worn. Non-police City employees should be escorted unless they meet the requirements for "non-escorted visitors."

208.5 NON-ESCORTED VISITORS AND POLICE AUXILARIES

All persons having non-escorted access to the police facility, building(s) or property, shall have permission to be unescorted by the Chief of Police, Division Commander, or their designee and should have passed a full-background check or minimally have successfully completed a "Less Than Full" background. The "Less-Than-Full" background will include:

- Personal History Statement (PHS)
- Release of Information Waiver Form Signed (for background authorization)
- Employment Eligibility Verification Form (if employed by the City)
- DOJ Live-Scan Fingerprint Clearance
- DOJ Subsequent Arrest Notification ("Rap Sheet")
- Valid Driver's License Printout
- Cleared Wants and Warrants

In addition to the above, Hayward Police Auxilaries will successfully complete a volunteer background as outlined in the Police Auxiliary Program Policy.

The Jail Administrator shall maintain a list of all persons with authorized "non-escorted visitor" status, and will review this list at least once annually. Individuals removed from "non-escorted visitor" list shall be done at the discretion of the Chief of Police or a Division Commander.

208.6 OFF-SITE LOCATION SECURITY

The Department maintains several secure offsite locations:

208.6.1 RADIO TOWERS

The Hayward Police and Fire Departments utilize a repeater system for Police and Fire Communications. The system consists of (46) remote repeaters strategically located in the City. The Public Works Departments utilize a standalone transmitter system.

All off-site radio tower systems are located in a secure alarmed facility, accessible only to qualified technicians and authorized personnel.

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208.6.2 OFFSITE EVIDENCE VEHICLE STORAGE YARD

The Police Evidence Vehicle Storage Yard (VSY) is located off site in a secure and alarmed yard. Only authorized sworn and professional staff field personnel are allowed entrance to this site. Police personnel must log all entries to this facility.

208.7 REVISIONS

Enacted: August 21, 2009

Revised: May 23, 2016

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Staffing Levels

209.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that proper staffing and supervision are 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.

209.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 21.2.4, 41.1.1

209.2 SUPERVISION DEPLOYMENTS

In the Patrol Division, two supervisors shall be on duty at all times to ensure that at least one field supervisor is deployed during each shift, in addition to the Watch Commander. In the event no lieutenant is on duty, an on-duty sergeant shall be designated responsible for handling Watch Commander duties and responsibilities. In order to accommodate training and other unforeseen circumstances, authorized senior employees may be used as field supervisors instead of a field sergeant.

209.3 MINIMUM STAFFING LEVELS

Staffing minimums shall be accomplished on a shift basis, rather than by time of day. There shall be no less than the following number of police officers on duty and performing uniformed patrol duties on each shift as follows:

- Day shift: 9 patrol officers
- Overlap (Swing) shift: 9 patrol officers
- Midnight (Night) shift: 9 patrol officers

For any shift that is required to provide a desk officer to handle citizen contacts at the police facility, the minimum staffing for that shift shall be one officer greater than the above minimums.

Only those officers specifically assigned to uniformed patrol duties shall be counted in meeting the above minimums. Reserve officers shall not be counted in meeting the above minimums. The following positions will not be counted unless they are specifically reassigned to patrol duties for the duration of that shift:

(a) Officers assigned to Desk Officer Duties.

(b) Officers in training.

(c) Officers assigned to the Traffic Bureau.

(d) Officers assigned to specialized functions other than regular uniformed patrol duties.

Note: The assignment of uniformed patrol officers to duties that have historically been the responsibility of beat patrol officers, which may limit their availability to respond to calls for service,

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shall not preclude them from being counted in satisfaction of the minimum staffing requirements above. Examples of such duties are: hospital guard, prisoner pick-up, etc. with an expected duration of less than one-half the total hours in the shift.

Shift assignments will occur bi-yearly on the first Monday in January and July. Patrol Division supervisors will assign officers beat assignments based on the needs of the Department. Officers should work that assigned beat for the duration of the current shift assignment.

209.3.1 STAFFING AT DAYLIGHT SAVINGS TIME CHANGE

Night shift scheduling and staffing may be affected by the time changes that occur each spring and fall in association with daylight savings. On each daylight savings occasion, the changing of the clock shall be effective at 2:00 AM on the given day of the change. To ensure proper staffing and time rolls, night shifts still on duty at the 2:00 AM change shall adjust the start and/or end time of the shift to offset the daylight savings hour lost in the spring and gained in the fall. In lieu of adjusting the start and/or end time of the affected shift, and at the discretion of the on-duty Watch Commander or Manager, affected personnel may be allowed to offset the hour lost at the springtime change by using one hour vacation or compensatory time. When daylight savings moves time back one hour in the fall, employees working the extra hour shall be compensated with one hour overtime.

209.4 WORKLOAD ASSESSMENTS

The distribution of personnel is based on workload and need. Over time, the number of police incidents, traffic issues, calls for service or community priority may change. A comprehensive study shall be completed by the administrative staff at least once every four (4) years regarding workload and staffing. The Study shall include at minimum:

(a) The study shall include all organization components using the appropriate measures to assure the proper number of personnel are assigned at the proper times and the workload in being handled.

(b) Division Commanders are responsible for establishing a process and schedule for the completion of these studies. The overall study may be the compilation of smaller studies completed over the three year period.

209.5 REVISIONS

Enacted: December 17, 2007

Revised: May 7, 2009

Revised: July 24, 2009

Revised: July 11, 2010

Revised:September 19, 2014

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Revised: December 31, 2018

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Staffing Levels

Revised: March 30, 2022

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License to Carry a Firearm

210.1 PURPOSE AND SCOPE

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

210.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

210.1.2 APPLICATION OF POLICY

Nothing in this policy shall preclude the Chief or other head of a municipal police [department/office] 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 [department/office] to process all applications and license renewals for the carrying of concealed weapons (Penal Code § 26150; Penal Code § 26155).

210.2 POLICY

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

210.3 QUALIFIED APPLICANTS

In order to qualify for a license to carry a firearm, the applicant must meet certain requirements, including:

(a) Be a resident of the City of Hayward (Penal Code § 26150; Penal Code § 26155).

(b) Be at least 21 years of age (Penal Code § 29610).

(c) Fully complete an application that will include substantial personal information. Much of the information in the application may be subject to public access under the Public Records Act.

(d) Be free from criminal convictions that would disqualify the applicant from carrying a firearm. Fingerprints will be required and a complete criminal background check will be conducted.

(e) Be of good moral character (Penal Code § 26150; Penal Code § 26155).

(f) Pay all associated application fees. These fees are set by statute and may not be refunded if the application is denied.

(g) Provide proof of ownership or registration of any firearm to be licensed.

(h) Be free from any psychological conditions that might make the applicant unsuitable for carrying a firearm (Penal Code § 26190).

(i) Complete required training (Penal Code § 26165).

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210.4 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.

No person determined to fall within a prohibited class described in Penal Code § 29800, Penal Code § 29900, Welfare and Institutions Code § 8100, or Welfare and Institutions Code § 8103 will be issued a license to carry a firearm. A license shall not be issued if the California Department of Justice (DOJ) determines that the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm (Penal Code § 26195).

210.4.1 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. In the event of any discrepancies in the application or background investigation, the applicant may be required to undergo a polygraph examination, at no cost to the applicant.

2. 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., not a resident, 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).

(c) The applicant shall be required to submit to fingerprinting and a complete criminal background check by the California DOJ. A second set of fingerprints may be required

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for retention in [department/office] files. Two recent passport-size photos (2 inches by 2 inches) of the applicant shall be submitted for [department/office] use.

(d) The applicant should submit at least three signed letters of character reference from individuals other than relatives.

(e) The applicant shall submit proof of ownership or registration of each firearm to be licensed.

Once the Chief of Police or the authorized designee has reviewed the completed application package and relevant background information, the application will either be advanced to phase two or denied.

In the event that an application is denied at the conclusion of, or during, phase one, the applicant shall be notified in writing within 90 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. If the license is denied, the notice shall state which requirement was not satisfied (Penal Code § 26205).

210.4.2 PHASE TWO

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

(a) Upon successful completion of phase one, the applicant shall be scheduled for a personal interview with the Chief of Police or the authorized designee. During this stage, there will be further discussion of any potential restrictions or conditions that might be placed on the license.

(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 (not to exceed $150) shall be paid by the applicant. The purpose of any such psychological testing is intended only to identify any outward indications or history of psychological problems that might render the applicant unfit to carry a firearm. This testing is not intended to certify in any other respect that the applicant is psychologically fit. If it is determined that the applicant is not a suitable candidate for carrying a firearm, the applicant shall be removed from further consideration (Penal Code § 26190).

(c) The applicant shall complete a course of training approved by the [department/office], which complies with Penal Code § 26165 (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.

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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.

Whether an application is approved or denied at the conclusion of or during phase two, the applicant shall be notified in writing within 90 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. If the license is denied, the notice shall state which requirement was not satisfied (Penal Code § 26205).

210.5 ISSUED FIREARMS PERMITS

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

(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 the person may carry the firearm.

1. All such restrictions or conditions shall be conspicuously noted on any license issued (Penal Code § 26200).
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 be laminated, bearing a photograph of the licensee with the expiration date, type of firearm, restrictions, and other pertinent information clearly visible.

1. Each license shall be numbered and clearly identify the licensee.
2. All licenses shall be subjected to inspection by the Chief of Police or any law enforcement officer.

(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.

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License to Carry a Firearm

210.5.1 LICENSE RESTRICTIONS

(a) The Chief of Police may place special restrictions limiting time, place, manner and circumstances under which any license shall be valid. In general, these restrictions will prohibit the licensee from:

1. Consuming any alcoholic beverage while armed.
2. Falsely representing him/herself as a peace officer.
3. Unjustified or unreasonable displaying of a firearm.
4. Committing any crime.
5. Being under the influence of any medication or drug while armed.
6. Interfering with any law enforcement officer's duties.
7. Refusing to display his/her license or firearm for inspection upon demand of any peace officer.
8. Loading the permitted firearm with illegal ammunition.

(b) The Chief of Police reserves the right to inspect any license or licensed firearm at any time.

(c) The alteration of any previously approved firearm including, but not limited to adjusting the trigger pull, adding laser sights or modifications shall void any license and serve as grounds for revocation.

210.5.2 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 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.

210.5.3 REVOCATION OF LICENSES

Any license issued pursuant to this policy may be immediately revoked by the Chief of Police for any of the following reasons:

(a) The licensee has violated any of the restrictions or conditions placed upon the license.

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(b) The licensee becomes psychologically unsuitable to carry a firearm.

(c) The licensee is determined to be within a prohibited class described in Penal Code § 29800, Penal Code § 29900, Welfare and Institutions Code § 8100, Welfare and Institutions Code § 8103, or any state or federal law.

(d) The licensee engages in any conduct which involves a lack of good moral character for the original issuance of the license.

(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).

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).

210.5.4 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 [department/office]-approved 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 a non-refundable renewal application fee.

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. Prior issuance of a license shall not entitle any licensee to any property or liberty right to renewal.

Whether an application for renewal is approved or denied, the applicant shall be notified in writing within 90 days of the renewal application or within 30 days after receipt of the applicant's criminal background check from the California DOJ, whichever is later (Penal Code § 26205).

210.6 DEPARTMENT REPORTING AND RECORDS

Pursuant to Penal Code § 26225, the Chief of Police shall maintain a record of the following and immediately provide copies of each to the California DOJ:

(a) The denial of a license

(b) The denial of an amendment to a license

(c) The issuance of a license

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(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.

210.7 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 public record (Government Code § 7923.808).

Any information in an application for a license to carry a firearm that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of the applicant's family shall not be considered public record (Government Code § 7923.800).

210.8 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/office] may not issue limited licenses (Penal Code § 26150). Therefore, such applicants may be referred to the Sheriff for processing.

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 Hayward (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).

210.9 REVISIONS

Enacted: December 17, 2007

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License to Carry a Firearm

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Retiree Concealed Firearms

211.1 PURPOSE AND SCOPE

The purpose of this policy is to outline the process and conditions associated with the issuance, revocation, and denial of a Carry Concealed Weapons (CCW) endorsement for qualified retired officers of this Department in accordance with 18 USC § 926C, the Law Enforcement Officers Safety Improvements Act (LEOSA) of 2010, Penal Code § 26312 and Penal Code § 26315 (formerly Penal Code § 12027.1).

211.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.3.10, 1.3.11

211.2 QUALIFIED RETIREES

As used in this section, the term "qualified retired law enforcement officer" means an individual who (18 USC § 926C):

(a) Separated from service in good standing with a public agency as a law enforcement officer. Officers who "resign in lieu of termination or who are terminated" do not qualify as a retired law enforcement officer for purposes of obtaining a CCW.

(b) Before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of the law, and had statutory powers of arrest.

(c) Before such separation, served as a law enforcement officer for an aggregate for 10 years or more.

(d) Separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency.

(e) During the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the State in which the individual resides or, if the State has not established such standards, either a law enforcement agency within the State in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State.

(f) Has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health and as a result of this finding will not be issued the photographic identification as described in this policy.

(g) Has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified

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under this section for reasons relating to mental health and for those reasons will not receive or accept the photographic identification as described in this policy.

(h) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(i) Is not prohibited by Federal law from receiving a firearm.

211.2.1 QUALIFIED RETIREES FROM OTHER AGENCIES

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

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

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

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

211.2.2 QUALIFIED RETIRED RESERVES

Qualified retired reserve officers who meet the department requirements shall be provided an identification card with a CCW Approved endorsement (Penal Code § 26300). As used in this section, Level 1 reserve officers shall meet department requirements as stated in 18 USC § 926C:

(a) Separated from service in good standing with a public agency as a Level 1 reserve officer. Level 1 reserve officers who "resign or are terminated" do not qualify as retired law enforcement officers for purposes of obtaining a CCW.

(b) Before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of the law, and had statutory powers of arrest.

(c) Before such separation, served as a Level 1 Reserve Officer for an aggregate for 20 years.

(d) Separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency.

(e) During the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the State in which the individual resides or, if the State has not established such standards, either a law enforcement agency within the State in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State.

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(f) Has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health and as a result of this finding will not be issued the photographic identification as described in this policy; or

(g) Has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified under this section for reasons relating to mental health and for those reasons will not receive or accept the photographic identification as described in this policy.

(h) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(i) Is not prohibited by Federal law from receiving a firearm.

(j) Is not in a location prohibited by California law or a private person or entity on his/her property if such prohibition is permitted by law.

211.3 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.

211.4 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).

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211.5 IDENTIFICATION CARD FORMAT

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

(a) Photograph of the retiree.

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

(c) Date of retirement.

(d) Name and address of this department.

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

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

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

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

211.6.1 WATCH COMMANDER RESPONSIBILITY

Any person or employee who has reason to suspect a retiree's conduct has compromised public safety should notify the Watch Commanderas soon as practical. The Watch Commander, working in conjunction with the Internal Affairs Unit, should take the following steps in these instances:

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

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

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

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

(d) In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Watch Commander should attempt to make the above notice of

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temporary suspension through another peace officer. For example, if a retiree was arrested or detained by a distant agency, the Watch Commander may request that a peace officer of that agency act as the Department's agent to deliver the written notification.

(e) Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312; Penal Code § 26315).

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

211.7 REVISIONS

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Chapter 3 - General Operations

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Use of Force

300.1 PURPOSE AND SCOPE

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

300.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.2.2, 1.3.1, 1.3.2, 1.3.4, 1.3.5, 1.3.6, 1.3.7, 1.3.8, 1.3.13, 52.2.7

300.1.2 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).

De-Escalation - De-escalation is the process of using strategies and techniques intended to decrease the intensity of the situation.When all of the reasonably known circumstances indicate it is safe, prudent, and feasible to do so, an officer(s) shall attempt to slow-down, reduce the intensity, or stabilize the situation so that more time, options, and/or resources may become available for incident resolution.

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.

Necessary - No reasonably effective alternative to the use of force appeared at the time and that the amount of force used was reasonable based upon the Hayward Police Department's policy and training to effect the lawful purpose intended.

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)).

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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.

The [Department/Office] recognizes and respects the sanctity 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)).

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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 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 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).

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(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.

(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.

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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).

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 Hayward 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, officers should evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques 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)). Such alternatives may include but are not limited to:

(a) Attempts to de-escalate a situation.

(b) If reasonably available, the use of crisis intervention techniques by properly trained personnel.

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).

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300.3.8 ADDITIONAL RESTRICTIONS

Terms such as “positional asphyxia,” “restraint asphyxia,” and “excited delirium” continue to remain the subject of debate among experts and medical professionals, are not universally recognized medical conditions, and frequently involve other collateral or controlling factors such as narcotics or alcohol influence, or pre-existing medical conditions. While it is impractical to restrict an officer’s use of reasonable control methods when attempting to restrain a combative individual, officers are not authorized to use any restraint or transportation method which might unreasonably impair an individual’s breathing or respiratory capacity for a period beyond the point when the individual has been adequately and safely controlled. Once controlled, the individual should be placed into a recovery position (e.g., supine or seated) and monitored for signs of medical distress (Government Code § 7286.5).

300.4 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself 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 him/herself or others from what he/she 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 him/herself, 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).

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).

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300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Discharging a firearm at or from a moving vehicle is rarely effective, therefore officers shall not discharge a firearm at the operator or occupants of a moving vehicle, unless a person in the vehicle is imminently threatening an officer or another person with deadly force by means other than the moving vehicle. Officers shall not discharge a firearm from his or her moving vehicle.

Outside of vehicle placement tactics taught by this department, officers shall not move into, remain, or otherwise position themselves in the path of a vehicle in an effort to detain or apprehend the occupants. Officers in the path of a moving vehicle shall immediately attempt to move to a position of safety rather than discharging a firearm at the vehicle or any of the occupants.

This policy may not cover every situation. Deviations from this policy may be necessary and justified, depending on the circumstances.

Any deviation from the provisions of this policy shall be reviewed on a case-by-case basis, in accordance with sound tactical principles including, but not limited to, the following:

- Cover and/or Tactical Relocation;
- Safe Distance;
- Incident Command and Tactical Leadership;
- Coordinated Personnel Placement
- Tactical Approach;
- Regard for Viable Target Acquisition;
- Due Regard for Background, including Location, Other Traffic, and Innocent Persons; and
- Due Regard for Crossfire and Controlled Fire and Management of Ammunition.

300.4.2 WARNING AND OTHER SHOTS

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

300.4.3 DESTRUCTION OF ANIMALS

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

In circumstances in which officers have sufficient advance notice that a potentially dangerous animal may be encountered, officers should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, ECD, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any officer from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

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300.4.4 INJURED ANIMALS

With the approval of a supervisor, an officer may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical (Penal Code § 597.1(e)). Injured animals (with the exception of dogs and cats) may only be euthanized after a reasonable search to locate the owner has been made (Penal Code § 597.1(b)). 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.

1. The intentional discharge to euthanize an injured animal shall be documented promptly, completely and accurately in an appropriate report. The officer should articulate the factors perceived and why he/she believed the discharge was reasonable under the circumstances.

2. The on-duty Watch Commander shall make an entry in the WC Log regarding the intentional firearm discharge.

3. A supervisor shall complete a Blue Team for the Firearm Discharge and route it through their chain of command.

4. Euthanizing an injured animal within policy will not trigger a review panel.

300.4.5 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.

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300.5.1 NOTIFICATION TO SUPERVISORS

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

(a) The application caused a visible injury.

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

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

(d) The individual indicates intent to pursue litigation.

(e) Any application of a CED or control device.

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

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

(h) An individual was struck or kicked.

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

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

300.5.2 REPORTABLE SHOW OF FORCE

Any show of force by a member of the department shall be documented promptly and accurately in an appropriate report, depending on the nature of the incident. An officer should articulate the factors perceived and why he/she believed the show of force was reasonable under the circumstances.

Reportable Show of Force documentation will be reviewed, and a supervisor will make a Blue Team entry in the following circumstances:

(a) Displaying any firearm at a subject, this includes holding the weapon in hand at the low ready position.

(b) Displaying the CEW at a subject or making mention that the CEW will be used.

(c) Releasing a canine service dog in an attempt to locate a non-compliant subject after proper announcements have been made and a subject(s) is located but no force is applied.

Supervisory notification shall be made as soon as practical following the application of any Show of Force.

300.5.3 REPORT OF ACCIDENTAL OR UNINTENATIONAL WEAPON DISCHARGE

Any member who discharges their weapon accidentally or unintentionally on or off-duty, shall make a verbal report to the on-duty Watch Commander or supervisor as soon as circumstances permit and shall file a written report with their Division Commander prior to the end of shift if on-duty and if off-duty, as directed by the Watch Commander or supervisor. This written report shall be in the form of a memorandum to the employee's Division Commander through their chain of command. The

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employee's supervisor will investigate the incident in accordance with the Personnel Complaint policy and forward a written memorandum to the employee's Division Commander. A Disciplinary Review Panel shall convene. This section shall only apply to discharges where no person is injured.

300.5.4 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.

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300.7 SUPERVISOR RESPONSIBILITY

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

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

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

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

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

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

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

(f) Review and approve all related reports.

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

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

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

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

300.7.1 WATCH COMMANDER RESPONSIBILITY

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

300.7.2 ADMINISTRATIVE LEAVE PENDING REVIEW

In the event the application of force or other employee action(s) result in serious bodily injury or death, the employee(s) directly involved shall be taken off line-duty and be placed on paid administrative leave and it shall be the responsibility of the Watch Commander to make schedule

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adjustments to accommodate such leave. The Chief of Police or Division Commander of the affected employee(s) will determine the appropriateness and duration of mandatory administrative leave, based upon the findings of the preliminary criminal/administrative investigation and the recommendation of the psychotherapist regarding the officer's readiness for field assignment. Generally, the length of administrative leave shall not exceed the time remaining in the employee's current scheduled work week. An employee may request additional administrative leave time subject to approval of the Chief of Police or affected Division Commander(s), based upon information provided to establish the need to grant the request.

The officer(s), upon being placed on administrative leave, will automatically be temporarily assigned to the Personnel and Training Administrator for the duration of the administrative leave.

During this time, the officer(s) shall maintain regular contact with the Personnel and Training Administrator. Regular contact will consist of once per week, unless other arrangements are approved or requested by the affected Division Commander(s). While the employee is off, their payroll hours will revert to Monday through Friday, 8:00 am to 4:00 pm. Each employee will also be expected to remain available to the Department by phone during those hours.

If an employee has been on administrative leave for six months or longer, that employee must report to the Personnel and Training Office to ensure all policy and/or training mandates and weapons qualifications have been met prior to returning to full duty.

300.8 TRAINING

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

Subject to available resources, the Personnel and Training Administrator should ensure that officers receive periodic training on de-escalation tactics, including alternatives to force.

Training should also include (Government Code § 7286(b)):

(a) Guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities.

(b) Training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

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

300.9 USE OF FORCE REVIEW

The Hayward Police Department objectively reviews and evaluates all reportable uses of force and reportable show of force incidents.

300.9.1 USE OF DEADLY FORCE REVIEW

The Hayward Police Department will convene an in-house panel to review all reportable uses of deadly force by an employee, whether on-duty or off-duty, that results in injury or death to a person.

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The panel also reviews the circumstances surrounding all field related accidental or intentional discharges of firearms whether the employee is on-duty or off-duty.

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 panel shall be comprised of the following members:

(a) Members of Command Staff.

(b) At least one Hayward Police Department use of force instructor.

(c) At the request of the involved employee, a member of the HPOA or an in-house SEIU member, as applicable.

(d) Any other persons deemed appropriate by the Chief of Police.

The Commander of the Division of the involved employee shall serve as the chairperson of the panel.

The panel's findings shall be by consensus and is limited to a determination of whether the use of deadly force was within Departmental policy and procedure or in violation of Departmental policy and procedure.

The panel chairperson shall forward the findings of the panel to the Chief of Police for review.

300.9.2 USE OF NON-DEADLY FORCE REVIEW

The Hayward Police Department reviews all reportable uses of non-deadly force by employees of the Department. The review process is as follows:

(a) Reviewing supervisors are to ensure that all reportable uses of non-deadly force are described thoroughly, completely, and accurately in the police report and supplemental reports that document the incident.

(b) The reviewing supervisor shall complete a Blue Team Use of Force entry based on the information contained in the police reports, including, but not limited to, the names of the employee(s) involved, the names of the person(s) who force was used on, the resistance offered or employed by the resisting person(s), the reason for the use of force, the type of force used and whether or not the force used was effective in overcoming the resistance presented, injuries sustained by any party, the location, date, time, and report number assigned to the incident.

1. If, in the opinion of the reviewing supervisor the use of force was reasonably necessary given the facts and circumstances, the Blue Team entry will be forwarded to their manager.

2. If, in the opinion of the reviewing supervisor the use of force was not reasonably necessary given the facts and circumstances, the reviewing supervisor shall

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forward the reports to the appropriate manager for review and any necessary action.

(c) The reviewing supervisor shall forward the completed Blue Team entry to their manager who shall compare the Blue Team entry with the police reports to ensure that all items are accurately reported.

1. If, in the opinion of the reviewing manager, the Blue Team entry is complete and the use of force was reasonably necessary given the facts and circumstances, the Blue Team entry will be forwarded to the Internal Affairs Unit.

2. If, in the opinion the reviewing manager, the force used was not reasonably necessary given the facts and circumstances, the reviewing manager shall forward the reports to the appropriate Division Commander for review and any necessary action.

(d) Once received by the Internal Affairs Unit, the Blue Team entry and the police reports will be reviewed and if the force was reasonably necessary given the facts and circumstances, the incident will be designated "within policy" and closed.

1. If, upon review by the Internal Affairs Unit, there is a question as to the reasonableness of the force used, the reports will be forwarded to the appropriate Division Commander for review and any necessary action.

300.10 ADMINISTRATIVE REVIEW

All reported applications of force shall be documented and reviewed according to the procedures developed by the Internal Affairs Unit under the direction of the Chief of Police. The Internal Affairs Unit Lieutenant is responsible to provide an annual report and analysis of use of force to the Chief of Police during the month of January for the preceding calendar year.

300.11 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.

300.12 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)).

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300.13 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)).

300.14 POLICY AVAILABILITY

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

300.15 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)).

300.16 REVISIONS

Enacted: December 17, 2007

Revised: August 19, 2008

Revised: February 18, 2009

Revised: May 9, 2009

Revised: July 31, 2009

Revised: February 7, 2010

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Revised: July 9, 2013

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Use of Force

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Handcuffing and Restraints

301.1 PURPOSE AND SCOPE

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

301.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 70.2.1

301.2 POLICY

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

301.3 USE OF RESTRAINTS

Only members who have successfully completed Hayward 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.

301.3.1 RESTRAINT OF DETAINEES

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

301.3.2 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 irons, 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 self or others, or damage property.

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No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers, or others (Penal Code § 3407; Penal Code § 6030).

301.3.3 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.

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

301.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

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

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

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

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

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

301.5 APPLICATION OF SPIT HOODS/MASKS/SOCKS

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

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

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

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

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

301.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

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

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

301.7 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. The WRAP device is the restraint approved by the department.

An Automated External Defibrillator (AED) shall be readily available for use, if necessary, whenever the WRAP is deployed.

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).

301.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints the following guidelines should be followed:

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

(b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat. The leg restraint device is not 100% escape-proof.

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

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

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

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

301.8 REQUIRED DOCUMENTATION

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

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

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

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

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

301.9 TRAINING

Subject to available resources, the Personnel and Training Administrator 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 irons, waist chains, or handcuffs behind the body.

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

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Control Devices and Techniques

302.1 PURPOSE AND SCOPE

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

302.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.3.4, 1.3.5, 1.3.6, 1.3.10, 1.3.11, 41.2.4

302.2 POLICY

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

302.3 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.

302.4 RESPONSIBILITIES

302.4.1 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. The Watch Commander shall monitor the use of control devices in the same manner as all other use of force incidents and review each use of control devices by any personnel within his or her command.

302.4.2 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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302.4.3 USER RESPONSIBILITIES

All normal acquisitions, inventory control, maintenance, charging or cleaning of control devices shall remain the responsibility of the bureau or unit responsible for issuing and/or deploying the various devices. The Personnel and Training Bureau shall maintain a list of various unit responsibilities in this regard.

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.

302.5 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 (straight or expandable/collapsible) or a Yawara stick, uniformed personnel shall carry them in its authorized holder on the equipment belt. Plainclothes and non-field personnel may carry them as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

302.6 TEAR GAS GUIDELINES

Chemical Agents may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Special Response Unit Commander may authorize the delivery and use of chemical agents, 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 chemical agents to control any fires and to assist in providing medical aid or gas evacuation if needed.

302.7 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.

302.7.1 OC SPRAY

Uniformed personnel carrying OC spray should 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.

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Canisters involved in any type of malfunction or damage shall be turned in for exchange to the Training Officer.

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

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

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

302.7.3 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.

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

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

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

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Control Devices and Techniques

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

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

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

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

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

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

302.9.2 DEPLOYMENT CONSIDERATIONS

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

(a) Distance and angle to target.

(b) Type of munitions employed.

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

(d) The subject's proximity to others.

(e) The location of the subject.

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

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

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

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

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

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

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

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

302.9.4 USE OF KINETIC ENERGY PROJECTILES BY THE SPECIAL RESPONSE UNIT (SRU)
Officers assigned to the Special Response Unit, who have completed a Departmental training course may carry and employ 12-gauge and/or 37/40 mm kinetic energy projectiles while on-duty or while performing Special Response Unit (SRU) or tactical missions.

302.10 TRAINING FOR CONTROL DEVICES
The Personnel and Training Administrator 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 Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

302.11 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES
Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

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Conducted Energy Device

303.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the Conducted Energy Device (CED).

303.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.3.4, 1.3.5, 1.3.6, 1.3.10, 1.3.11

303.2 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.

303.3 ISSUANCE AND CARRYING CEDS

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

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.

303.3.1 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 P&T 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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303.4 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.

303.5 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.

303.5.1 APPLICATION OF THE CED

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

(a) Is violent or is physically resisting.

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

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

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

303.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

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

(a) Individuals who are known to be pregnant.

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(b) Elderly individuals or obvious juveniles.

(c) Individuals with obviously low body mass.

(d) Individuals who are handcuffed or otherwise restrained.

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

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

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

303.5.3 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.

303.5.4 MULTIPLE APPLICATIONS OF THE CED

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

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

(b) Whether the probes are making proper contact.

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

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

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.

303.5.5 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

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be submitted into evidence. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

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

303.5.7 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.

303.6 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.

Items that shall be included in the CED report form are:

(a) Identification of all personnel firing CEDs.

(b) Identification of all witnesses.

(c) Medical care provided to the subject(s).

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

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

(f) The type and brand of CED and cartridge and cartridge serial number(s).

(g) Date, time and location of the incident.

(h) Whether any display, laser or arc deterred a subject and gained compliance.

(i) The number of CED activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject(s) received applications.

(j) The range at which the CED was used.

(k) The type of mode used (probe or drive-stun).

(l) Location of any probe impact.

(m) Location of contact in drive-stun mode.

(n) Description of where missed probes went.

(o) Whether the subject(s) sustained any injuries.

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(p) Whether any officers sustained any injuries.

303.7 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).

303.8 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 instructor and saved with the related arrest/crime report. The supervisor shall ensure the arrangement of photographs of probe sites to be taken and witnesses to be interviewed.

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303.9 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 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 Personnel and Training Administrator. 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 Personnel and Training Administrator 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 Personnel and Training Administrator should include the following training:

(a) A review of this policy.

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

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

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

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

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

(g) De-escalation techniques.

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

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

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

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Officer-Involved Shootings and Deaths

304.1 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.

304.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.3.5, 1.3.6, 1.3.8, 22.2.1, 22.2.3, 41.2.4, 52.2.7

304.1.2 DEFINITIONS

Officer Involved Shooting (OIS) - An OIS shall include all instances in which an officer discharges a firearm, for any actual, apparent or purported law enforcement purpose.

Accidental Discharge - An accidental discharge is defined as any instance in which an officer discharges a firearm without specifically intending to do so.

Miscellaneous Discharges - Miscellaneous discharges are defined as discharges occurring for purposes of training or killing animals in compliance with the Use of Force and Firearms and Qualification policies. These discharges are specifically excluded from this policy.

304.2 INVESTIGATION RESPONSIBILITY

This department conforms to the Alameda County OIS protocol for investigating officer-involved shootings. Officer involved shootings and in-custody deaths are investigated in a thorough, fair and impartial manner.

304.3 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.

304.4 JURISDICTION

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

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304.4.1 HAYWARD POLICE DEPARTMENT OFFICER/DEPUTY WITHIN THIS JURISDICTION

The Hayward Police Department is responsible for the criminal investigation of the suspect's actions, and the administrative investigation. The criminal investigation of the officer-involved shooting will be conducted by the District Attorney's Office.

304.4.2 ALLIED AGENCY'S OFFICER WITHIN THIS JURISDICTION

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

304.4.3 HAYWARD POLICE DEPARTMENT OFFICER IN ANOTHER JURISDICTION

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

304.4.4 INVESTIGATION RESPONSIBILITY MATRIX

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

	Criminal Investigation of Suspect(s)	**Criminal Investigation of Officer(s)**	**Administrative Investigation**
Hayward PD Officer in This Jurisdiction	Hayward PD Investigators	District Attorney's Office	Hayward PD Internal Affairs Unit
Allied Agency's Officer in This Jurisdiction	Hayward PD Investigators	District Attorney's Office	Involved Officer's Department
Hayward PD Officer in Another Jurisdiction	Agency where incident occurred	Decision made by agency where incident occurred	Hayward PD Internal Affairs Unit

304.5 INVESTIGATION PROCESS

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

304.5.1 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).

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

(c) If necessary, the supervisor may administratively order any officer from this Department to immediately provide 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 the Communications Center. 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 an Investigation Division 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. If the shooter officer's weapon is left at the scene for evidentiary reasons, a replacement will be provided at the station. In the event the shooter officer's weapon is taken for evidence, a comparable replacement will be issued immediately.

3. Each involved officer shall be sequestered at the station. All photographs, evidence and weapon recovery shall be carried out at the direction of the CIB Supervisor.

304.5.2 WATCH COMMANDER DUTIES

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

304.5.3 WATCH COMMANDER NOTIFICATIONS

The following person(s) shall be notified as soon as practical and the time of the notifications should be recorded:

Patrol Commander - The Patrol Commander will arrange for Chief of Police notification.

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On-Call Investigations Bureau Sergeant - The On-Call Investigations Bureau Sergeant will notify the Investigations Bureau Lieutenant/PIO, who will notify the Investigations Division Commander. The On-Call Investigations Bureau Sergeant will also notify the District Attorney's OIS Team and, if applicable, the California Department of Justice (DOJ), and the Coroner's Office.

Internal Affairs Unit Lieutenant.

Hayward Police Officer's Association President or Board Member.

Personnel and Training Manager - The Personnel and Training Manager will notify the Peer Support Team Supervisor and Chaplain, as appropriate.

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

304.5.4 ADMINISTRATIVE LEAVE

Each involved officer shall be given paid administrative leave following an officer-involved shooting and it shall be the responsibility of the Watch Commander to make schedule adjustments to accommodate such leave. The Chief of Police or Division Commander will determine the appropriateness and duration of extended mandatory administrative leave, based upon the findings of the preliminary criminal investigation and the recommendation of the psychotherapist regarding the officer's readiness for field assignment, generally the length of administrative leave shall not exceed the time remaining in the employee's current scheduled work week. An employee may request additional administrative leave time subject to approval of the Chief of Police or Division Commander, based upon information provided to establish the need to grant the request. The Administrative Leave Sheet shall be reviewed and completed, as indicated.

The officer(s), upon being placed on administrative leave, will automatically be temporarily assigned to the Personnel and Training Manager for the duration of administrative leave. During this time, the officer(s) shall maintain regular contact with the Personnel and Training Administrator. Regular contact will consist of once per week, unless other arrangements are approved or requested by the Division Commander. While the employee is off, their payroll hours will revert to Monday thru Friday, 8:00 am to 4:00 pm. Each employee will also be expected to remain available to the Department by phone during those hours.

If an employee has been on administrative leave for six months or longer, that employee must report to the Personnel and Training Office to ensure all policy and/or training mandates and weapons qualifications have been met prior to returning to full duty.

304.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

(a) Any request for legal or union representation will be accommodated.

1. Involved HPD 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.

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2. Requests from involved non-HPD 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 HPD officer. A licensed psychotherapist may also be provided to any other affected HPD 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 HPD 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.

304.5.6 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved HPD 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 HPD 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.

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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 the Communications Center. If feasible, sensitive information should be communicated over secure networks.

(d) Take command of and secure the incident scene with additional HPD 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 HPD officer should be given an administrative order not to discuss the incident with other involved officers or HPD 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.

304.5.7 NOTIFICATION TO DEPARTMENT OF JUSTICE

The California Department of Justice (DOJ) is required to investigate an officer-involved shooting resulting in the death of an unarmed civilian. The On-Call Investigations Bureau Sergeant should promptly notify the DOJ in all incidents involving an officer-involved shooting resulting in the death of an unarmed civilian, including where it is undetermined if the civilian was unarmed. Call LA CLEAR at 1-800-LA-CLEAR.

For purposes of notification, "unarmed civilian" means anyone who is not in possession of a deadly weapon (Government Code § 12525.3).

304.6 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:

(a) HPD supervisors and Internal Affairs Unit personnel should not participate directly in any voluntary interview of HPD 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

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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.

304.6.1 REPORTS BY INVOLVED HPD 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 HPD 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 HPD 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 HPD 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.

304.6.2 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.

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

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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.

304.6.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Criminal Investigations Bureau supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators may be assigned to work with investigators from the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office. The designated Criminal Investigations Bureau supervisor should oversee the collection of evidence, including firearms.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Criminal Investigations 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 Division Commander.

304.7 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 HPD officers to determine conformance with [department/office] policy. The investigation will be conducted under the supervision of the Internal Affairs 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).

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

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

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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.

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

1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. 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 Internal Affairs 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.

304.8 AUDIO AND VIDEO RECORDINGS

Any officer involved in a shooting or death may be permitted to review his or her own body-worn camera recording prior to providing a recorded statement or completing reports. Exceptions to this shall be made on a case-by-case basis, with express permission from the employee's division commander to review other available recordings.

Any video or audio recording of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or City Attorney's Office, as appropriate.

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304.9 DEBRIEFING

Following an officer-involved shooting or death, the Hayward 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.

304.9.1 TACTICAL DEBRIEFING

A tactical debriefing should take place to identify any training or areas of policy that may need improvement. The appropriate Division Captain will determine panel members based pm each unique incident. The tactical briefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators. The task of the panel is to review the incident to consider potential training needs and/or meritorious performance that should be reinforced during future department training.

304.10 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be available to the Watch Commander, Investigation Division Commander and Public Information Officer in the event of inquiries from the media.

The Department shall not subject any involved HPD officer to visits by the media (Government Code § 3303(e)). No involved HPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or a Division Commander. Department 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.

304.11 CIVIL LIABILITY RESPONSE

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

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

304.12 REPORTING

If the death of an individual occurs in the Hayward Police Department jurisdiction and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Patrol Division Commander will ensure that the Records Administrator is provided with enough information to meet the reporting requirements (Penal Code § 196; Penal Code § 13022; Government Code § 12525).

304.13 REVISIONS

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Officer-Involved Shootings and Deaths

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FIREARMS AND QUALIFICATION

305.1 PURPOSE AND SCOPE

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

305.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.3.9, 1.3.10, 1.3.11, 1.3.12, 16.3.6, 22.2.1, 41.3.4

305.1.2 RECORD OF APPROVED WEAPONS

A record of each weapon approved by the Hayward Police Department for official use shall be maintained by the Personnel and Training Bureau.

305.2 AUTHORIZED WEAPONS

Members shall only carry firearm(s) that are authorized, maintained, and inspected as required. In addition, members shall be issued copies of and be instructed in the Departmental lethal and less lethal weapon policies and demonstrate annual proficiency in the use and control of any firearm before being authorized to carry a weapon.

All other weapons, 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 policy, may not be carried by personnel in the performance of their official duty without the express written authorization of the employee's Division Commander. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

305.2.1 DUTY WEAPONS - HANDGUN

The authorized Departmental issued handguns for uniformed assignment and planned special operations (e.g., SRU, search warrant) are:

- Sig Sauer, Models P226, P229, and P320, .40 caliber and 9mm.
- Glock: Models 22C, G22 & G23, .40 caliber and 9 mm

No sub-compact models are authorized for uniformed duty carry.

Officers assigned to Investigations Bureau (non-uniformed) or administrative positions (IA, P&T) may carry:

- Smith & Wesson, MP Compact,.40 caliber and 9mm.
- Glock, Model G27, Sub-Compact,.40 caliber and 9mm.
- Sig Sauer, Model P320, Full, Compact, Sub-Compact,.40 caliber and 9mm.
- Sig Sauer P365, 9mm.

Officers assigned to administrative positions (command level, IA, P&T, or undercover) may carry:

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- Smith & Wesson, MP Shield, .40 caliber and 9 mm.
- Sig Sauer, P365, 9mm.

No other duty weapon may be carried without the express permission of the Chief of Police.

All duty handguns shall follow the following criteria:

(a) The duty firearm shall be carried as a sidearm only in a Department approved duty holster. The duty holster shall be of a make and model authorized by the Chief of Police, the specifications of which shall be recorded and kept on file in the Office of Personnel and Training.

1. Officers shall not modify any specification of the authorized Department approved holster in any way without the express approval of the Chief of Police.

(b) Officers may attach an approved weapon-mounted lighting system to the Department approved firearm. Use of a mounted light system is optional, and the light system shall be acquired and maintained at the officer's own expense.

1. Officers electing to attach a mounted light system may use only those light systems authorized by the Chief of Police. Specifications of authorized light systems shall be recorded and kept on file in the Office of Personnel and Training.
2. The approved light system shall be installed pursuant only to manufacturer specification.
3. Prior to carrying a mounted light system on a duty firearm, the officer shall demonstrate proficiency with the nomenclature and operation of the mounted light system once it is installed on the firearm. To authenticate that proficiency, a Rangemaster must make a record in the employee's training file that the employee has demonstrated such proficiency.
4. Mounted light systems shall not be used intermittently, such as removing and re-installing the system in the field temporarily in order to respond to select situations or in accordance to changes in lighting that occur during the course of routine.

(c) Officers may use high capacity magazines, not to exceed 21 rounds, with their private purchase and Department approved handguns. Use of such high capacity magazines are optional and high capacity magazines shall be acquired and maintained at the officer's expense. Officer electing to use high capacity magazines shall use only the following manufacturers: Sig Sauer: Sig Sauer Factory (OEM) 21 round magazine. Glock: Taran Tactical and Pearce Grips.

(d) Officers may use flared magwell’s with their private purchase and Department approved handguns. Use of such flared magwell’s are optional and flared magwell’s shall be acquired and maintained at the officer’s expense. Officers electing to use flared magwell’s shall only use the following manufacturers: Sig Sauer: Sig Sauer Factory (OEM) X5 grip module. Glock: Magpul, Dawson Precision, and Taran Tactical.

(e) Officers may use aftermarket sights with their private purchase and Department approved handguns. Use of such aftermarket sights are optional and aftermarket

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sights shall be acquired and maintained at the officer's expense. Officers electing to use aftermarket sights shall only use the following manufacturer: Trijicon, TruGlo, Dawson precision, Ameriglo, or other manufacturer approved by the Chief of Police. Such sights shall be kept on file in the Office of Personnel and Training.

(f) The duty firearm shall be inspected by a Rangemaster or Armorer prior to being carried and thereafter shall be subject to inspection whenever deemed necessary, or pursuant to the Firearms and Qualifications Policy.

(g) Officers shall be trained and shall qualify with a Departmentally issued firearm initially before carrying it on duty, then annually thereafter. The officer must demonstrate proficiency and safe handling, and that the firearm functions properly.

(h) Should a non-Department issued duty firearm require repair or servicing, a replacement Department issued duty weapon will be provided to the employee until such time as his or her weapon is inspected, approved and returned for duty use by the Departmental Armorer. The officer shall, as soon as practical, qualify with that replacement weapon prior to duty use and shall qualify with their personally-owned weapon once it has been repaired prior to duty use. A record of the make, model and serial number shall be maintained in the officer's equipment and training file maintained by the Office of Personnel & Training.

305.2.2 RED DOT EQUIPPED HANDGUNS

Red Dot Sights (RDS) equipped duty handguns are approved for duty use by the members of the Hayward Police Department.

- The Hayward Police Department issued RDS equipped handguns shall be maintained by the departments approved armorer. All costs associated with the deployment of the department issued RDS-equipped duty handgun is the responsibility of the Hayward Police Department.Department issued RDS equipped handguns will consist of the following:
  - Sig Sauer p320 or p320 compact 9mm and Glock 17 Gen5 9mm or Glock 19 Gen5 9mm
  - Sig Romeo One Pro RDS
  - For all other specification refer to policy 305.2.1
- Officers may also choose to personally purchase an RDS system. All associated costs shall be the responsibility of the individual employee.Hayward Police Department personnel shall adhere to the following guidelines when personally purchasing RDS systems. **Modification of a department-owned slide is not authorized.**

(a) The authorized RDS shall be manufactured by TRIJICON (No SRO), SIG SAUER, LEUPOLD, HOLOSON, AIMPOINT or another authorized major manufacturer approved by the Firearms Range Master. All RDS sights shall be installed to meet/ exceed manufacturer specifications and recommendations. A RDS adapter mounting plate may be used to mount an approved RDS to an approved handgun. Such adapter plates shall be purchased from C&H Precision Weapons Systems or by another authorized manufacturer approved by the range master.

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(b) RDS equipped handguns shall have co-witnessing (suppressor height) iron sights installed as a backup to the RDS. The co-witness sights shall be installed and zeroed prior to installing the RDS. The approved list of pistol iron sights can be found in policy 305.2.1 section e.

(c) RDS equipped handguns shall be zeroed at 10 yards. Batteries shall be replaced every SIX months.The RDS shall be checked for proper zero or re-zeroed if needed after the battery has been changed. The batteries used in the RDS should be manufactured by Sony or Duracell or the manufacturers recommendation.

(d) Every officer who desires to carry an RDS equipped duty handgun must have the weapon approved by the Firearms Ranger Master. All officers who have RDS equipped handguns shall complete a (10 hour) RDS transitional course and qualification course of fire demonstrating proficiency with the RDS and co-witnessing sights.

Officers shall use a level III RDS holster in accordance with policy 305.2.1. section a

305.2.3 AUTHORIZED SECONDARY FIREARM

Authorized secondary back-up firearms will meet the following specifications:

A compact or sub-compact handgun in .380 cal., .38 cal., .357 cal., 9mm or 40mm from a major, reputable manufacturer as approved by the Chief of Police or his/her designee.

Officers desiring to carry a secondary firearm are subject to the following restrictions:

(a) Written authorization and approval from the Chief of Police shall be obtained prior to the officer carrying the secondary firearm on duty, and the written authorization shall be inserted into the officer's training file maintained by the Personnel and Training Unit; and

(b) Only one secondary firearm may be carried at a time; and

(c) The firearms shall be carried so that it is out of public view at all times, unless being deployed for use; and

(d) The firearm shall be carried in such a manner as to prevent accidental cocking, accidental discharge, or loss of physical control. Secondary firearms shall be carried in only one of two following methods:

1. In a pocket holster located in the pants pocket and secured with a snap, button or velcro fastener; or

2. In a vest holder with a security strap or flap that firmly secures the firearm to the vest; and

(e) The officer desiring to carry the secondary firearm shall be responsible for its purchase, the purchase of its ammunition other than .40 caliber, and its maintenance or repair; and

(f) Officers shall only carry Department-authorized ammunition; and

(g) The secondary firearm shall be inspected by a Departmental Armorer prior to being carried and thereafter shall be subject to inspection whenever deemed necessary; and

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(h) The officer desiring to carry the secondary firearm shall be trained and shall qualify with the firearm initially before carrying it on duty, then annually thereafter. The officer must demonstrate proficiency and safe handling, and that the firearm functions properly; and

(i) A record of the make, model, serial number, and approved ammunition shall be maintained in the officer's equipment and training file maintained by the Personnel and Training Unit; and

(j) The Department shall not bear the expense of any secondary or otherwise non-issue firearm that is subsequently denied, unauthorized or banned.

305.2.4 AUTHORIZED OFF-DUTY FIREARM

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

(a) The firearm shall be of good quality and workmanship and approved by the Department.

(b) The purchase of the firearm and ammunition shall be the responsibility of the officer.

(c) The firearm shall be carried concealed at all times and in such a manner as to prevent accidental cocking, discharge, or loss of physical control.

(d) It will be the responsibility of the officer to submit the firearm to the Rangemaster for inspection prior to being carried. Thereafter the firearm shall be subject to periodic inspection by the Rangemaster.

(e) Prior to carrying any off-duty firearm, the officer 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.

(f) The officer will successfully qualify with the firearm prior to it being carried and thereafter once annually. The range qualification dates will be specified by the Personnel and Training Bureau and/or the Rangemaster.

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

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

(i) Officers shall only use ammunition from a major, reputable manufacturer (examples would include Federal, Winchester, Hornaday, Remington and Speer).

(j) When armed, whether on or off duty, officers shall carry their badge and Department identification.

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305.2.5 DUTY SHOTGUNS

All duty shotguns will be 12-gauge commercially manufactured weapons.

Patrol use shotguns will be pump action, with a magazine tube that will hold at least 4 rounds. Officers are required to inspect all shotguns prior to each shift to ensure the appropriate weapon is stored properly in the vehicle and prepared for duty use.

The SRU team uses semi-automatic shotguns. The assigned team member is responsible for ensuring the weapon is prepared for duty use.

305.2.6 DUTY RIFLES

Rifles are authorized for duty use. Rifles may be provided by the department, or personally purchased for duty use. All patrol rifles will be "AR" platform in semi-automatic configuration, 5.56/.223 caliber. All patrol rifles must be approved for use by the Firearms Training Program Manager. All officers who choose to deploy a patrol rifle must attend a POST certified Patrol Rifle User course prior to deployment. Officers are required to inspect all rifles prior to each shift to ensure the appropriate weapon is stored properly in the vehicle and prepared of duty use.

The SRU team uses select fire automatic, semi-automatic, and bolt action rifles. SRU designated rifles may be 5.56/.223 or.308 caliber. Only those officers who have been trained in the use of these weapons are authorized to carry and use them.

305.2.7 WEAPON LAUNCHERS

The authorized Departmental weapon launchers are:

- Defense Technology, 40mm
- Fabrique Nationale, Model FN303, Pepper/Less Lethal
- Louis Machine Tool (LMT) Defense model # 1425

Officers shall be trained and shall qualify with an authorized departmental weapon launcher before deploying it on duty, then annually thereafter.Less lethal launchers shall be properly stored and secured in patrol sergeant vehicles.Only deparmtment approved 40mm impact sponge rounds are authorized for use.Qualified SRU personnel may deploy other impact munitions and chemical agents from authorized department weapon launchers.

305.2.8 TRAINING WEAPONS

The authorized Departmental training weapons are:

- Sig Sauer, Model P226/P228, 9mm Semi-Automatic handguns
- Smith & Wesson, Model 38 Special, .38 caliber handgun
- Smith & Wesson, Model 66, .38/.357 caliber handgun
- Smith & Wesson, Model 586, .38/.357 caliber handgun
- Smith & Wesson, Model 28-2l, .38/.357 caliber handgun
- Colt, Detective Special, .38 caliber handgun

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These weapons are retained by the Personnel and Training Bureau for use on specified training activities approved by the Personnel & Training Bureau Manager.

305.2.9 AMMUNITION

Officers shall carry only Department authorized ammunition. Officers shall be issued fresh duty ammunition in the specified quantity for all Department issued firearms during the officer's first scheduled qualification each year. Officers carrying personally owned authorized firearms of a caliber differing from Department issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above at their own expense. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by a member of the Firearms Training Program when needed in accordance with established policy.

305.2.10 APPROVED AMMUNITION

The Department will issue appropriate commercially manufactured ammunition for duty use. Officers may only carry and deploy that ammunition issued for duty use. The Firearms Training Program Manager will periodically review the brand and type of duty ammunition to ensure deployed duty ammunition is current and relative as an industry standard. This will include handgun, rifle, shotgun, and less lethal shotgun ammunition.

The SRU Team Commander will identify for issue appropriate commercially manufactured ammunition for SRU duty use. This will include 12-gauge shotgun breaching rounds, 40MM launcher munitions, .308 caliber rifle ammunition. .223/5.56 special purpose ammunition, .22 caliber rifle ammunition, and 12-gauge shotgun gas or less lethal munitions.

305.2.11 AUTHORIZED INDIVIDUAL OFFICER PURCHASED WEAPONS

The individual purchase of handguns, rifles, and shotguns by officers for duty use is permitted by the Chief of Police, but may be rescinded should circumstances dictate. Sworn officers who choose to purchase a handgun, rifle, or shotgun for duty use will be required to meet the following guidelines:

a. The firearm shall be of good quality and workmanship, made by a reputable firearms manufacturer and as approved by the Chief of Police or designee.

b. The purchase of the handgun, rifle, or shotgun as authorized by policy shall be the responsibility of the officer.

c. Officers wishing to use individually purchased semi-automatic shotguns for duty use will be required to successfully complete a POST approved "Tactical Shotgun" course. The costs associated with attending this training are the sole responsibility of the officer. Officers successfully completing the course will provide copies of their training certificates to the Personnel and Training Office. The Firearms Training Program Manager may consider other training and experience to satisfy this requirement.

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d. All personally purchased weapons for duty use shall be submitted to a Departmental Armorer for inspection prior to deployment. Annual inspections by a Departmental Armorer are required for continued field use.

e. Officers must qualify with their personally purchased weapon prior to it being carried on duty and thereafter once annually.

f. A complete description of the personally purchased weapon designated for duty use and any attached equipment shall be contained on the qualification record approved by the qualifying Rangemaster.

g. Officers shall only carry Department authorized ammunition as described in this policy.

h. All lighting, sights, slings, ammunition mounts and additional equipment used on the officer's personally purchased weapon will be high quality, durable, commercially manufactured equipment made by a reputable manufacturer and shall be approved by the Chief of Police or designee.

305.2.12 APPROVED USAGE OF AUTHORIZED SHOTGUN SLUGS

Officers may carry only Department authorized shotgun slug rounds, as specified in this policy. All slug ammunition deployed in the field shall be of a distinctive label and/or color as to avoid confusion with or similarity to other shotgun ammunition. Slug rounds shall not be loaded into the shotgun unless being readied for possible deployment related to an incident, and therefore, shall not be loaded in the weapon as a means of routine carry.

Although distinctively marked and colored to differentiate from other shotgun ammunition, slug rounds shall not be mixed with or carried in an ammunition pouch or sleeve affixed to the shotgun.

305.2.13 ALCOHOL AND DRUGS

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

305.3 SAFE HANDLING OF FIREARMS

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

305.3.1 SAFETY CONSIDERATIONS

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

(b) Officers carrying firearms mounted with approved lighting systems shall not display or point the firearm solely as a light source in situations when the drawing or displaying of the duty firearm is not justified or prudent.

(c) 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.

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(d) Any member who discharges their weapon unintentionally on or off-duty, shall make a verbal report to the on-duty Watch Commander or supervisor as soon as circumstances permit and shall file a written report with their Division Commander prior to the end of shift if on-duty and if off-duty, as directed by the Watch Commander or supervisor. This written report shall be in the form of a memorandum to the employee's Division Commander through their chain of command. The employee's supervisor will investigate the incident in accordance with the Personnel Complaints Policy and forward a written memorandum to the employee's Division Commander. A Disciplinary Review Panel shall convene.

(e) Officers shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.

(f) Shotguns or rifles removed from vehicles or equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle.

(g) Officers shall not place or store any firearm or other weapon on Department premises except where the place of storage is locked. No one shall carry firearms into the jail section or any part thereof when securing or processing a prisoner, but shall place all firearms in a secured location. It shall be the responsibility of the releasing officer to make sure that persons from outside agencies do not enter the jail section with any firearm.

(h) Officers shall not use any automatic weapon, heavy caliber rifles, gas or other types of chemical weapon (from the armory), except with approval of a supervisor.

(i) Any weapon authorized by the Department to be carried on or off duty that is found by the officer to be malfunctioning or needing service shall not be carried and shall be promptly presented to the Departmental Rangemaster for inspection. Any weapon determined to be in need of service or repair during an inspection by the Departmental 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 again rendered serviceable. The officer shall qualify with that replacement weapon prior to duty use. Should a non-Department issued duty firearm require repair or servicing, a replacement Department issued duty weapon will be provided to the employee until such time as his or her weapon is returned, inspected, and approved for duty use by the Departmental Armorer. The officer shall qualify with that replacement weapon prior to duty use and shall qualify with their personally-owned weapon once it has been repaired prior to duty use.

305.3.2 STORAGE

Officers shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control in a manner that will keep them inaccessible to children and irresponsible adults.

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FIREARMS AND QUALIFICATION

When officers are in public and in possession of a firearm, they should maintain the firearm secured on their person at all times.

However, should it become necessary to secure a firearm inside an unattended vehicle (excludes shotguns/patrol rifles already secured), a member shall adhere to the following guidelines:

a. Officers shall not secure firearms in the glove box or other similar storage compartment within any vehicle.

b. If an officer is faced with a situation that requires a firearm be stored in an unattended vehicle for a short period of time, the firearm shall be secured inside the locked trunk of the vehicle. The firearm is to be placed in the trunk out of public view.

c. If the vehicle design does not include a trunk (truck, SUV, etc.), the firearm shall be secured in a locked metal container affixed to the vehicle in a location within the passenger compartment not visible from the exterior of the vehicle. If the vehicle does not contain a lock box, then officers shall ensure the firearm is locked and secured out of view and with a locking device that is designed to prevent the firearm from functioning and, when applied to the firearm, renders the firearm inoperable, pursuant to Penal Code sec. 16860.

Officers shall be aware that negligent storage of a firearm could result in criminal prosecution under Penal Code § 25100.

Under no circumstances shall any firearm in a vehicle be left unattnded in a vehicle overnight.

305.3.3 PATROL RIFLES

The authorized department-issued patrol rifle is the Colt LE 6920. The following additional patrol rifles are approved for on-duty use:

MAKE	MODEL	CALIBER

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

(a) Situations where the member reasonably anticipates an armed encounter.

(b) When a member is faced with a situation that may require accurate and effective fire at long range.

(c) Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.

(d) When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.

(e) When a member reasonably believes that a suspect may be wearing body armor.

(f) When authorized or requested by a supervisor.

(g) When needed to euthanize an animal.

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When not deployed, the patrol rifle shall be properly secured in a locking weapons rack in the patrol vehicle with the chamber empty, magazine loaded and inserted into the magazine well, the bolt forward with the dust cover closed, the trigger pulled to release the hammer and the selector lever in the fire position (selector lever cannot be in the safe position with the hammer released).

305.3.4 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 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 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.

305.3.5 AUTHORIZED SECONDARY HANDGUN

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

(a) The handgun shall be in good working order and on the department list of approved firearms.

(b) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the Department.

(c) 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.

(d) The handgun shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.

(e) Ammunition shall be the same as department issue. If the caliber of the handgun is other than department issue, the Chief of Police or the authorized designee shall approve the ammunition.

(f) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.

(g) 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.

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305.3.6 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-authorized ammunition.

(i) When armed, officers shall carry their badges and Hayward Police Department identification cards under circumstances requiring possession of such identification.

305.3.7 AMMUNITION

Members shall carry only department-authorized ammunition. Members shall be issued fresh duty ammunition in the specified quantity for all department-issued firearms during the member's firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Department 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-issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above, at their own expense.

305.4 FIREARMS QUALIFICATIONS

All sworn personnel are required to qualify annually with their duty weapon on an approved range course. The Rangemaster shall keep accurate records of qualifications, repairs, maintenance,

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training or as directed by the Personnel & Training Manager. In addition to regular qualification schedules, the Rangemaster shall be responsible for providing all sworn personnel with annual practical training designed to simulate field situations. At least annually, all personnel carrying a firearm will receive training on the Department Use of Force Policy and demonstrate their knowledge and understanding.

305.4.1 NON-QUALIFICATION

When an officer is unable to qualify for any reason, including injury, illness, duty status, or scheduling conflict, a memorandum shall be submitted to the Personnel and Training Administrator immediately after the determination the officer has failed or is unable to meet compliance. In cases when officers fail to achieve a passing score during a shooting qualification, the assessing firearms instructor shall submit the memorandum to the Personnel and Training Administrator. In cases when officers are unable to participate in a required shooting qualification, the officer's supervisor shall submit the memorandum to the Personnel and Training Administrator. In either case, the memorandum should identify the performance or prohibiting issues resulting in the officer's inability to qualify.

Sworn members who fail to achieve a passing score on their first shooting qualification attempt shall be subject to the following requirements:

(a) The officer shall immediately be relieved from field duty pending successful completion of remedial training and demonstrated firearms proficiency, or other disciplinary action is determined.

(b) The officer failing qualification shall, as soon as possible, be provided immediate remedial training under a course of fire determined by the Personnel and Training Administrator to address the identified firearm competency issues.

(c) After completion of reasonable remedial training, the officer must demonstrate firearms proficiency and achieve a passing score of qualification.

Sworn members who have previously demonstrated proficiency but are overdue or unable to comply with the next firearms qualification interval, as identified by policy, as a result of an injury, illness, duty status, or scheduling conflict, shall be subject to the following requirements:

(a) The officer may be relieved from field duty if more than thirty (30) days lapses beyond the expiration of the previous compliance period, pending successful requalification and/or determination of disciplinary action if applicable.

305.4.2 HOLSTERS

Only department-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.

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305.4.3 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.

305.4.4 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 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 sight in on a target when the member would otherwise be justified in pointing a firearm at the target.

305.5 RANGEMASTER DUTIES

A live-fire range will be under the exclusive control of a current or former POST certified Rangemaster. All persons attending a live-fire range training will follow the directions of the Rangemaster. The Rangemaster will maintain a roster of all persons attending the range and will submit the roster and any training or qualification records to the Personnel & Training Manager after each range date. Failure of any officer to sign in and out with the Rangemaster may result in a non-qualification.

The range shall remain operational and accessible to Department members during hours established by the Department, which is currently from 0800 until 2200 hours. The physical location of the police range is 1400 Calhoun St., Hayward, California.

The Rangemaster has the responsibility of inspecting all weapons at the conclusion of range training. The purpose is to ensure the weapon is clean and functioning properly. The Rangemaster has the authority to deem any department or privately owned weapon unfit for service. The officer will be responsible for all repairs to his/her personal weapon, which is not his/her primary duty weapon. Any weapon deemed unfit for duty use shall be submitted to a Departmental Armorer for inspection and repair prior to being returned to service.

305.5.1 POLICE FIREARMS RANGE REGULATIONS

The Range is under the authority of the Patrol Division Commander and the Firearms Training Program Manager. The Firearms Program Manager shall appoint sufficient numbers of qualified range masters and armorers to provide for:

(a) The development and administration of firearms training programs.

(b) The care and maintenance of Departmental firearms.

(c) Inventory, control, storage, and issuance of ammunition and supplies.

(d) The responsibility for the cleanliness and condition of all range facilities.

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FIREARMS AND QUALIFICATION

It shall be the responsibility of the Watch Commander or his/her designess to supervise the use of the range facilities.

Only Hayward Police Officers, Hayward Police Reserve Officers, Hayward Police Retirees, Police Officers, and other law enforcement agencies approved by the Chief of Police are authorized to use the police range. No other persons are authorized to use the range or are permitted on the range with the following exception:

(a) An escorted quest(s) of a Hayward Police Officer, Hayward Police Reserve Officer, or Hayward Police Retiree are permitted to utilize the range under the following conditions:

1. A certified Hayward Rangemaster is present;
2. The guest(s) must be at least 14-years of age and sign the Hayward's Release of Liability form to include the Parent/Guardian permission if under the age of 18. The form is accessible from the HPD Intranet;
3. Only firearms and ammunition inspected and approved by the Rangemaster present at the range are permitted to be fired. No automatic weapons are authorized to be used at the range by the guest(s) without prior Division Commander approval;
4. Only paper/cardboard targets are to be utilized. The escorted guest(s) shall not fire at any type of metal target.
5. The General Range Safety Rules as listed in this policy shall apply to all guest(s).

It shall be the responsibility of the individuals intending to use the range at times other than scheduled Department training to notify the Watch Commander and Dispatch Center prior to using the range. The Watch Commander will be advised of the names of all individuals to be present at the range.

The Watch Commander shall note in the Watch Commander's Log the names, date and time of the persons and agencies using the facilities.

When a Rangemaster is present at the range he/she shall have the authority and responsibility to insure that any weapons activity is performed in a safe and appropriate manner. Minus a Rangemaster being present, each person at the range shall have the responsibility to insure that any weapons activity is performed in a safe and appropriate manner.

305.5.2 GENERAL RANGE SAFETY RULES

The following general range safety rules shall apply:

(a) To provide adequate safety there must be at least two (2) persons at the range whenever it is in use.

(b) Extreme care and caution shall be used at all times by those present at the range.

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(c) Safety equipment, which includes eye and ear protection and bullet proof vests, must be worn at all times when firing on the range.

(d) Any firing shall only be directed towards targets which are located in the authorized target area.

(e) There shall be no firing, whatsoever, at any object at the range other than authorized targets. Nor shall any firing occur at targets not authorized for the weapon being used. Metal knock down targets which are not rated for rifle or shotgun slug rounds shall only be used in connection with handgun rounds.

(f) Sighting, dry firing, or pointing of a firearm behind the firing line or any other place where an accidental discharge might injure any person or property is prohibited.

(g) Firearms shall not be passed to another person unless the slide is locked back or the weapons cylinder or action is open.

(h) Firearms shall always be pointed down range when on the firing line.

(i) No one shall walk in front of the firing line until the line has been cleared by the range master and all weapons have been holstered or benched.

(j) If a misfire occurs the shooter shall keep the muzzle of the gun pointed down range and immediately clear the malfunction using trained methods only. If the shooter is unable to clear the malfunction, the Range Master shall be immediately notified. The weapon shall be treated with extreme caution until the defective condition has been cleared.

(k) Firearms shall be holstered and in an unloaded condition at all times on the range, except when firing on a training course, and/or when under the direction of a Rangemaster.

305.5.3 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.

Firearms may be safely stored in lockers or another approved location at the end of the shift. 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.

305.5.4 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit [department/office]-issued firearms to be handled by anyone not authorized by the [Department/

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Office] to do so. Members should be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 25100).

305.5.5 ALCOHOL AND DRUGS
Firearms shall not be carried by any member, either on- or off-duty, who has consumed an amount of an alcoholic beverage, taken any drugs or medication, or has taken any combination thereof that would tend to adversely affect the member's senses or judgment.

305.5.6 STORAGE IN VEHICLES
When leaving a handgun in an unattended vehicle, members shall ensure that it is locked in the trunk, or in a locked container that is placed out of view, or in a locked container that is permanently affixed to the vehicle's interior and not in plain view, or in a locked toolbox or utility box permanently affixed to the vehicle (Penal Code § 16850; Penal Code § 25140; Penal Code § 25452).

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).

305.6 MAINTENANCE AND REPAIR
Firearms carried on or off duty shall be maintained in a clean, serviceable condition.

305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION
If any member fails to meet minimum standards for firearms training or qualification for any reason, including injury, illness, duty status or scheduling conflict, the Range Instructor shall so document and submit a memorandum to the Personnel and Training Unit prior to the end of the required training or qualification period.

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

(a) Additional range assignments may be scheduled to assist the member in demonstrating consistent firearm proficiency.

(b) Members shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.

(c) No range credit will be given for the following:

1. Unauthorized range make-up
2. Failure to meet minimum standards or qualify after remedial training

Members who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

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305.6.2 REVIEW, INSPECTION AND APPROVAL OF DUTY WEAPONS

The Hayward Police Department provides for the review, inspection and approval of all duty weapons and ammunition intended for use by each sworn employee in the performance of their duties, prior to carrying, by a qualified weapons instructor or Departmental Armorer.

The procedure for the review, inspection and approval of duty weapons are as follows:

(a) Annually, a Departmental Armorer will notify each sworn employee that his/her weapon(s) are subject for review and inspection. This notification will consist of a written request to the employee.

(b) Upon receiving the written notification, the employee will communicate with the Departmental Armorer and arrange for the Armorer to receive the weapon(s). Any known weapon(s) problems will be brought to the attention of the Armorer at that time.

(c) Upon receiving the weapon(s), the Departmental Armorer will thoroughly review, inspect, repair as needed, and approve the weapon for duty use. Written documentation of the inspection(s) will be maintained by the Personnel and Training Bureau.

(d) All approved weapons will be returned to the sworn employee.

(e) Weapons that are deemed unsafe will be removed from duty use. A replacement weapon will be provided to the employee until such time that his/her weapon is returned, inspected and approved for duty use by a Departmental Armorer.

(f) Departmental shotguns, rifles and specialty weapons not specifically assigned to a sworn employee will be annually reviewed, inspected and approved for use following the same process outlined above.

(g) In addition, Range Masters will conduct annual inspections during the yearly qualification course. Officers issued Departmental issued handguns or officers who choose to use an individually owned duty firearm will have their firearm inspected yearly for proper function. Firearms requiring cleaning or repair will not be allowed for use on duty. If this occurs to an Officer using an individually owned duty firearm, the Officer is responsible for repairing and cleaning the weapon and must resubmit the weapon for inspection. Any costs associated with repairing the firearm will be the responsibility of the officer.

305.6.3 REVIEW, INSPECTION AND APPROVAL OF OFF-DUTY WEAPONS

The Hayward Police Department provides for the review, inspection and approval of all off-duty weapons and ammunition intended for use by each sworn employee in the performance of their duties, prior to carrying, by a qualified weapons instructor or Departmental Armorer.

The procedure for the review, inspection and approval of off-duty weapons are as follows:

(a) Annually during Departmental qualification range training, the Rangemaster will review, inspect and approve all off-duty weapons used by sworn employees. Written

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documentation of the inspection(s) and approval will be maintained by the Personnel and Training Bureau.

(b) Any repairs or modifications to the officer's personally owned weapon shall be done at his or her expense and must be approved by the Rangemaster. Written documentation of the repairs or modifications will be maintained by the Personnel and Training Bureau.

305.7 FLYING WHILE ARMED

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to personnel who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.217):

(a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure purposes.

(b) Officers must carry their Department identification card which must contain a full-face picture, the officer's signature and the signature of the Chief of Police or the official seal of the Department and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver's license, passport).

(c) The Hayward Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Hayward Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message to airport personnel as authorization to travel while armed on the day of travel.

(d) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the Department appointed instructor.

(e) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification can be accomplished by early check-in at the carrier's check-in counter.

(f) 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.

(g) Officers should not surrender their firearm but should try to resolve any problems through the flight captain, ground security manager or other management representative of the air carrier.

(h) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

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305.7.1 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.

305.7.2 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 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).

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

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

305.8 CARRYING FIREARMS OUT OF STATE

Qualified active full-time officers and qualified active and retired Level One reserve law enforcement officers are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC § 926b; 18 USC § 926c):

(a) The officer shall carry his/her Department identification card whenever carrying such weapon.

(b) Qualified retired officers shall also carry certification of having met firearms qualification within the past 12 months.

(c) An active full-time officer is not the subject of any current disciplinary action.

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(d) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.

(e) The officer will remain subject to this and all other Department policies (including qualifying and training).

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

Visiting active and retired peace officers from other states are subject to all requirements set forth in 18 USC § 926b and 18 USC § 926C.

305.9 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.

(b) Officers must carry their Hayward 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 Hayward Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Hayward 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.

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(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.

305.9.1 REPAIR OR MODIFICATIONS OF DUTY WEAPONS

The Rangemaster shall be the only person authorized to repair or modify any department-owned weapon. All repairs and/or modifications of department issued weapons not performed by the Rangemaster must be approved in advance by the Rangemaster and accomplished by a department approved gunsmith.

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

305.10 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 Hayward 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.

(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.

305.11 REVISIONS

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FIREARMS AND QUALIFICATION

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Operational Readiness and Inspection

306.1 PURPOSE AND SCOPE

This section describes the responsibilities of agency personnel and units for maintaining operational readiness.

306.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 17.5.1, 17.5.2, 17.5.3, 41.3.2, 46.1.8, 53.1.1

306.2 POLICE FACILITY AND SYSTEMS

The Building Manager is ultimately responsible to assure operational readiness is maintained for police facility and its systems.

306.3 FACILITY EMERGENCY POWER GENERATOR

The Building Manager shall ensure that an emergency generator test and readiness procedure is in place and followed. Testing shall be conducted at least once a month.

306.4 COMMUNICATIONS CENTER

The Support Services Manager shall ensure that the procedures are developed and followed regarding the maintenance, training and testing of the following systems:

- Fire Suppression System
- Audio telephone and Radio Recording Systems
- Facility Video Systems

The Communications Bureau Administrator is responsible to ensure that procedures are developed and followed regarding the maintenance, training and testing of the following systems:

- Emergency Callout Lists/Process
- Radio Interoperability Systems
- Mutual Aid Request Systems (Law Enforcement and Fire)
- Reverse 911 System

306.5 EMERGENCY OPERATIONS CENTER

The City of Hayward utilizes a "virtual" satellite based Emergency Operations Center (EOC) concept supported by "E-Team". The Hayward Fire Department (HFD) holds primary responsibility for the training and readiness of "E-Team" operations. The primary EOC is also coordinated by HFD, and is designated to be run out of City Hall. The Hayward Police Department has secondary operational EOC capabilities as well as mobile EOC assets. The Patrol Captain and the Support Services Manager are responsible for developing procedures to ensure the readiness of the Police Departments secondary and mobile EOC assets. This procedure will include lists of available equipment to be on hand, inventory and serviceability procedures, and overall standup tests.

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The mobile EOC shall be activated at least once annually to ensure systems are functional and appropriate. An actual operational activation of the mobile EOC may fulfill this requirement if the appropriate after action review is completed in writing.

306.6 RESPONSIBILITIES

Division Commanders are responsible for the operational readiness of all assets under their command. Beyond this policy, Division Commanders will ensure that procedures are developed, maintained, and adhered to on all systems, facilities and assets under their control. In some instances an asset utilized by Operations is maintained by the Support Services Division or Personnel and Training Office. Operational readiness in general means having the system, facility or asset in a condition to be immediately accessed and deployed for the purpose it is intended. Every system should have one or more operational employee(s) responsible for its readiness. Considerations for Readiness are:

- Located where it can be accessed;
- In a tested and functioning condition;
- Identified frequency of testing and maintenance;
- Adequate stock or inventory on hand;
- Stock replaced at end of life limits;
- Users identified and adequately trained to access and operate;
- Procedures to access and deploy are clearly published;
- Procedures established to address failure of asset; and
- System for reporting lack of readiness

306.6.1 ISSUING AND REISSUING AGENCY PROPERTY

Agency property may be issued to employees based on a number of factors including:

- Job Classification at hire
- Job Classification after promotion
- Specialty Assignments

All agency property relating to uniforms, uniform and safety equipment will be maintained and issued as needed by the Personnel and Training Officer following the responsibilities noted in the Operational Readiness and Inspection Policy. The Personnel and Training Officer will keep a record of all issued equipment. That Officer will also collect equipment when an employee no longer requires it and reissue as appropriate to other employees, documenting the transfer accordingly. Employees who are issued agency property will be responsible for the operational readiness of those items.

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Managers and Supervisors who have been tasked with maintaining operational readiness of Departmental assets based on adjunct responsibilities will follow the same guidelines as listed above.

Departmental assets that are damaged, non-functional or missing shall be reported to the appropriate Division Commander, who will facilitate the item(s) replacement.

306.7 PATROL DIVISION ASSETS

At minimum, the following assets are maintained in a readiness state:

(a) Vehicles:

1. Marked Patrol Vehicles
2. Unmarked Patrol Vehicles
3. Patrol Supervisor Vehicles
4. CSO Vehicles
5. Police Bicycles

(b) Equipment:

1. Conducted Energy Devices (CED)
2. Munitions (Standard and Less-Lethal)
3. Firearms
4. Specialized Patrol Equipment
5. Patrol Vehicle Supply Inventory
6. Patrol Supplies

(a) Patrol Bicycles

306.8 SPECIAL OPERATIONS DIVISION ASSETS

At minimum, the following assets are maintained in a readiness state:

Vehicles:

(a) Mobile Command Vehicle

(b) DUI Trailers

(c) Radar Trailers

(d) Police Motorcycles

(e) Tactical Rescue Vehicle (TRV)

Equipment:

(a) Preliminary Alcohol Screening Device (PAS)

(b) Specialized Traffic Bureau Equipment

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(c) Flash bangs or distraction devices

306.9 INVESTIGATIONS DIVISION ASSETS

At minimum, Investigation Division maintains the following assets in a readiness state:

(a) Vehicles:

1. Unmarked Vehicles
2. CSI Vehicles
3. Property/Evidence Vehicles

(b) Equipment

1. Specialized Investigation Equipment
2. Specialized Information and Intelligence Equipment
3. Specialized CSI Equipment and Supplies
4. Specialized Evidence Laboratory Equipment and Supplies
5. Investigations Bureau Issued Equipment
6. Investigations Vehicle Supply Inventory
7. Investigations Supplies
8. Property/Evidence Supplies

306.10 SUPPORT SERVICES DIVISION ASSETS

At minimum, Support Services maintains the following assets in a readiness state:

(a) Vehicles:

1. Unmarked Support Vehicles
2. Volunteer Vehicles
3. Animal Control Vehicles
4. Unmarked Administrative Staff Vehicles

(b) Equipment:

1. Portable Radios
2. Fixed Alcohol Screening Device (Intoxilyzer)
3. Live Scan Devices
4. Audio Visual Observation Equipment

(c) Replacement Inventory:

1. Document and Forms Supply

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2. Office Supplies

306.11 OFFICE OF THE CHIEF OF POLICE ASSETS

At minimum, the Office of the Chief of Police maintains the following assets in a readiness state:

(a) Vehicles:

1. Unmarked Chief's Vehicle
2. Unmarked Personnel & Training Vehicle
3. Range Trailer

(b) Equipment:

1. Safety Equipment
2. Duty Gear
3. Firearms and Ammunition
4. Riot Gear
5. Flashlights
6. Electronic Control Device
7. Range Equipment
8. Audio Visual Training Equipment
9. Training Library

(c) Replacement Inventory:

1. Uniforms
2. Uniform Badges
3. Uniform Patches
4. Ammunition
5. Batteries
6. Duty Belt Supplies
7. Pepper Spray

306.12 PATROL TEAM AND UNIT LINE INSPECTIONS

Although it is the overall responsibility of the Division Commanders to ensure critical personnel and equipment is ready when needed, it is the supervisor that carries out that responsibility on a daily basis. Patrol and Investigation supervisors shall carry out line inspections in accordance with the HPD Line and Staff Inspections Procedure with the frequency specified. In addition, Patrol

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and Investigation supervisors are responsible for the condition of those employees and assets under their leadership.

Command Staff may call for a random line inspection of any unit, at any time.

306.13 REVISIONS

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Vehicle Pursuits

307.1 POLICY

It is the policy of this [department/office] to balance the importance of apprehending suspects who unlawfully flee from law enforcement against the risks associated with vehicle pursuits.

307.2 PURPOSE AND SCOPE

This policy provides guidelines for vehicle pursuits in order to protect the safety of involved officers, the public, and fleeing suspects.

307.2.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.3.1, 1.3.2, 1.3.6, 41.2.2, 41.2.3.

307.2.2 DEFINITIONS

Blocking - A low-speed tactic where one or more authorized police [department/office] emergency vehicles intentionally restrict the movement of a suspect vehicle, with the goal of containment or preventing a pursuit. Blocking is not boxing in or a roadblock.

Boxing-in - A tactic designed to stop a suspect's moving vehicle by surrounding it with law enforcement 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 intentionally applied to cause the suspect vehicle to spin out and terminate the pursuit.

Ramming - The deliberate act of impacting a suspect's vehicle with another vehicle to functionally damage or otherwise force the suspect's vehicle to stop.

Roadblocks - A tactic designed to stop a suspect's vehicle by intentionally placing an emergency vehicle or other immovable object in the path of the suspect's vehicle.

Tire deflation device - A device that extends across the roadway designed to puncture the tires of the pursued 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

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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.

307.3 OFFICER RESPONSIBILITIES

Vehicle pursuits shall only be conducted using authorized police [department/office] emergency vehicles that are equipped with and displaying emergency lighting and sirens as required by Vehicle Code § 21055. Officers are responsible for continuously driving with due regard and caution for the safety of all persons and property (Vehicle Code § 21056).

307.3.1 PURSUIT DEVELOPMENT AND RECOGINITION

When an officer attempts to stop a vehicle and the violator fails to yield immediately, there may be a brief interval where the officer follows the violator with lights and siren activated in an effort to lawfully stop him/her.

The decision whether or not to pursue should be made when the officer perceives that:

a. The violator is attempting to flee from or evade the officer, and/or

b. The violator knows or reasonably should know that the officer is signaling him/her to yield.

The time period between the officer's decision to stop a vehicle and deciding whether or not to pursue is the "pre-pursuit phase." During this time, officers should gather as much identifying information as practical about the vehicle and occupant(s), the nature of suspected offenses, and the surrounding environment.

If at this point the officer does not pursue the violator, it will be deemed that a pursuit has not been initiated.

307.3.2 WHEN TO INITIATE A PURSUIT

Officers may engage in vehicular pursuits only when the officer can articulate the following factors are present:

(a) When a violator is driving in a non-hazardous manner but willfully failing to yield to emergency lights and siren the officer may continue to follow the vehicle unless the driving behavior or circumstances change that would make it unsafe to continue, or

(b) When the violator is believed to be a violent felon who poses a significant, ongoing threat to public safety.

(c) When the violator is believed to be a violent misdemeanant, armed, and poses a significant and ongoing threat to public safety.

(d) Pursuits of suspected intoxicated drivers where the driving of the subject PRIOR to the attempted stop already presented an intolerable risk of injury or death to persons other than the subject.

(e) The seriousness of the offense and the threat posed by the fleeing suspects(s) must justify the vehicle pursuit.

When initiating or continuing a vehicle pursuit, officers should continually weigh the seriousness of the offense(s) against the potential dangers to themselves and members of the public. When

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specific facts and circumstances change to the point that the danger or serious injury posed by the vehicle pursuit to other motorists and pedestrians outweighs the need to apprehend the violator the pursuit shall be terminated.

Factors that should be considered in deciding whether to initiate a pursuit include:

a. The seriousness of known or reasonably suspected crime and its relationship to community safety.

b. The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists, and others.

c. The safety of the public in the area of the pursuit, including the type of area, time of day,the amount of vehicular and pedestrian traffic (e.g., school zones), and the speed of the pursuit relative to these factors.

d. The pursuing officers' familiarity with the area of the pursuit. the quality of radio communications between the pursuing units and the Communications Operator supervisor, and the driving capabilities of the pursuing officers under the conditions of the pursuit.

e. Whether weather, traffic, and road conditions unreasonably increase the danger of the pursuit when weighed against the risk of the suspect's escape.

f. Whether the identity of the suspect has been verified and whether there is comparatively minimal risk in allowing the suspect to be apprehended at a later time.

g. The performance capabilities of the vehicles used in the pursuit. in relation to the speeds and other conditions of the pursuit.

h. Emergency lighting and siren limitations on unmarked police [department/office] 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. Suspect and officer vehicle speeds.

j. Other persons in or on the pursued vehicle (e.g., passengers, co-offenders, hostages).

k. Availability of other resources such as air support or vehicle locator or deactivation technology.

307.3.3 WHEN TO TERMINATE A PURSUIT

Pursuits should be terminated whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect’s escape.

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The factors listed in this policy on when to initiate a pursuit will apply equally to the decision to terminate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists, themselves, and the public when electing to continue a pursuit.

In addition to the factors that govern when to initiate a pursuit, other factors should be considered in deciding whether to terminate a pursuit, including:

(a) The distance between the pursuing vehicle and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance.

(b) The pursued vehicle's location is no longer definitely known.

(c) The pursuing vehicle sustains damage or a mechanical failure that renders it unsafe to drive.

(d) The pursuing vehicle's emergency lighting equipment or siren becomes partially or completely inoperable.

(e) Hazards to uninvolved bystanders or motorists.

(f) The danger that the continued pursuit poses to the public, the officers, or the suspect, balanced against the risk of allowing the suspect to remain at large.

(g) 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.

307.3.4 SPEED LIMITS

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the officer and supervisor. Evaluation of vehicle speeds shall take into consideration public safety, officer safety and the safety of the occupants of the fleeing vehicle.

Should high vehicle speeds be reached during a pursuit, officers and supervisors shall 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.

307.4 PURSUIT UNITS

When involved in a pursuit, unmarked police [department/office] emergency vehicles should be replaced by marked emergency vehicles whenever practicable

Vehicle pursuits should be limited to three vehicles (two units and a supervisor); however, the number of units involved may vary with the circumstances.

An officer or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it reasonably appears that the number of officers involved may be insufficient to

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safely arrest the suspects. All other officers should stay out of the pursuit, but should remain alert to its progress and location. Any officer who drops out of a pursuit may then, if necessary, proceed to the termination point at legal speeds, following the appropriate rules of the road.

307.4.1 MOTORCYCLE OFFICERS

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

307.4.2 VEHICLES WITHOUT EMERGENCY EQUIPMENT

Officers operating vehicles not equipped with red light and siren are prohibited from initiating or joining in any pursuit.

307.4.3 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless the officer is unable to remain reasonably close to the suspect’s vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspects without unreasonable danger to any person.

The primary unit should notify the Communications Operator commencing with a request for priority radio traffic, that a vehicle pursuit has been initiated, and as soon as practicable provide information including but not limited to:

(a) The location, direction of travel, and estimated speed of the suspect's vehicle.

(b) The description of the suspect's vehicle including license plate number, if known.

(c) The reason for the pursuit.

(d) Known or suspected weapons. Threat of force, violence, injuries, hostages, or other unusual hazards.

(e) The suspected number of occupants and identity or description.

(f) The weather, road, and traffic conditions.

(g) The need for any additional resources or equipment.

(h) The identity of other law enforcement agencies involved in the pursuit.

Until relieved by a supervisor or secondary unit, the officer in the primary unit is responsible for the broadcasting of the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary pursuing officer should, as soon as practicable, relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or air support joining the pursuit to minimize distractions and allow the primary pursuing officer to concentrate foremost on safe pursuit tactics.

307.4.4 SECONDARY UNIT RESPONSIBILITIES

The second officer in the pursuit will be designated as the secondary unit and is responsible for:

(a) Immediately notifying the dispatcher of entry into the pursuit.

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(b) Remaining a safe distance behind the primary unit unless directed to assume the role of primary pursuit vehicle or if the primary pursuit vehicle is unable to continue the pursuit.

(c) Broadcasting the progress, updating known or critical information, and providing changes in the pursuit, unless the situation indicates otherwise.

(d) Identifying the need for additional resources or equipment as appropriate.

(e) Serving as backup to the primary pursuing officer once the suspect has been stopped.

307.4.5 PURSUIT DRIVING

The decision to use specific driving tactics requires the same assessment of the factors the officer considered when determining whether to initiate and/or terminate a pursuit. The following are tactics for units involved in the pursuit:

(a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.

(b) Because intersections can present increased risks, the following tactics should be considered:

1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
2. Pursuing units should exercise due regard and caution when proceeding through controlled intersections.

(c) As a general rule, officers should not pursue a vehicle driving left of center (wrong way) against traffic. In the event that the pursued vehicle does so, the following tactics should be considered:

1. Requesting assistance from available air support.
2. Maintain visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.
3. Request other units to observe exits available to the suspects.

(d) Notify the California Highway Patrol (CHP) and/or other law enforcement agency if it appears that the pursuit may enter its jurisdiction.

(e) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit and with a clear understanding of the maneuver process between the involved units.

307.4.6 PURSUIT TRAILING

In the event the initiating unit from this agency either relinquishes control of the pursuit to another unit or jurisdiction, that initiating unit may, with permission of a supervisor, trail the pursuit to the termination point in order to provide information and assistance for the arrest of the suspects and reporting the incident.

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307.4.7 AIR SUPPORT ASSISTANCE

When available, air support assistance should be requested. Once the air unit has established visual contact with the pursued vehicle, the unit should assume control over the pursuit. The primary and secondary ground units, or involved supervisor, will maintain operational control but should consider whether the participation of air support warrants the continued close proximity and/or involvement of ground units in the pursuit.

The air unit should coordinate the activities of resources on the ground, report progress of the pursuit and provide officers and supervisors with details of upcoming traffic congestion, road hazards, or other pertinent information to evaluate whether to continue the pursuit. If ground units are not within visual contact of the pursued vehicle and the air support unit determines that it is unsafe to continue the pursuit, the air support unit should recommend terminating the pursuit.

307.4.8 UNITS NOT INVOLVED IN THE PURSUIT

There should be no paralleling of the pursuit route. Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Officers should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor.

The primary and secondary units should be the only units operating under emergency conditions (red light and siren) unless other units are assigned to the pursuit.

307.5 SUPERVISORY CONTROL AND RESPONSIBILITIES

Available supervisory and management control will be exercised over all vehicle pursuits involving officers from this [department/office].

The field supervisor of the officer initiating the pursuit, or if unavailable, the nearest field supervisor will be responsible for:

(a) Immediately notifying involved unit and the Communications Operator of supervisory presence and ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit.

(b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.

(c) Exercising management and control of the pursuit even if not engaged in it.

(d) Ensuring that no more than the required number of units are involved in the pursuit under the guidelines set forth in this policy.

(e) Directing that the pursuit be terminated if, in the supervisor's judgment, it is unreasonable to continue the pursuit under the guidelines of this policy.

(f) Ensuring that assistance from air support, canines, or additional resources is requested, if available and appropriate.

(g) Ensuring that the proper radio channel is being used.

(h) Ensuring that the Watch Commander is notified of the pursuit as soon as practicable.

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(i) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this [department/office].

(j) Controlling and managing Hayward Police Department units when a pursuit enters another jurisdiction.

(k) Preparing a post-pursuit review and documentation of the pursuit.

1. Supervisors should initiate follow up or additional review when appropriate.

307.5.1 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. Once notified, the Watch Commander has the final responsibility for the coordination, control, and termination of a vehicle pursuit and shall be in overall command.

The Watch Commander shall review all pertinent reports for content and forward to the Division Commander.

307.6 THE COMMUNICATIONS CENTER

If the pursuit is confined within the City limits, radio communications will be conducted on the primary channel unless instructed otherwise by a supervisor or Communications Operator. 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 and units.

307.6.1 THE COMMUNICATIONS CENTER RESPONSIBILITIES

Upon notification that a pursuit has been initiated, the Communications Center will:

(a) (a) Coordinate pursuit communications of the involved units and personnel;

(b) Notify and coordinate with other involved or affected agencies as practical;

(c) Ensure that a field supervisor is notified over the air of the pursuit;

(d) Log all pursuit activities into CAD/RMS;

(e) Broadcast pursuit updates as well as other pertinent information as necessary;

(f) Notify the Watch Commander as soon as practical;

(g) Confirm and advise the status of the vehicle being pursued (i.e., stolen, additional wants, etc.);

(h) Check and advise the identity and address of the vehicle's registered owner, including if they have any outstanding warrants;

(i) Advise of any other emergency units responding code 3 to other locations in the City;

(j) Determine the availability of air support.

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307.6.2 LOSS OF PURSUED VEHICLE

When the pursued vehicle is lost, the primary unit should broadcast pertinent information to assist other units in locating suspects. The primary unit or supervisor will be responsible for coordinating any further search for either the pursued vehicle or suspects fleeing on foot.

307.7 INTER-JURISDICTIONAL CONSIDERATIONS

When a pursuit enters another agency's jurisdiction, the primary officer or supervisor, taking into consideration distance traveled, unfamiliarity with the area and other pertinent facts, should determine whether to request the other agency to assume the pursuit. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary officer or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether such jurisdiction is expected to assist.

307.7.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

Officers will relinquish control of the pursuit when another agency has assumed the pursuit, unless the continued assistance of the Hayward Police Department is requested by the agency assuming the pursuit. Upon relinquishing control of the pursuit, the involved officers may proceed, with supervisory approval, to the termination point of the pursuit to assist in the investigation. The supervisor should coordinate such assistance with the assuming agency and obtain any information that is necessary for any reports. Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific.

307.7.2 PURSUITS EXTENDING INTO THIS JURISDICTION

The agency that initiates a pursuit is responsible for conducting the pursuit. Units from this [department/office] should not join a pursuit unless specifically requested to do so by the pursuing agency and with approval from a supervisor. The exception to this is when a single unit from the initiating agency is in pursuit. Under this circumstance, a supervisor may authorize units from this [department/office] to join the pursuit until sufficient units from the initiating agency join the pursuit or until additional information is provided allowing withdrawal of the pursuit.

When a request is made for this [department/office] to assist or take over a pursuit that has entered the jurisdiction of Hayward Police Department, the supervisor should consider:

(a) The public's safety within this jurisdiction.

(b) Whether the pursuit meets the criteria outlined in this policy.

(c) The safety of the pursuing officers.

(d) Whether the circumstances are serious enough to continue the pursuit.

(e) Whether there is adequate staffing to continue the pursuit.

(f) The ability to maintain the pursuit.

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As soon as practicable, a supervisor or the Watch Commander should review a request for assistance from another agency. The Watch Commander or supervisor, after considering the above factors, may decline to assist in, or assume the other agency's pursuit.

Assistance to a pursuing allied agency by officers of this [department/office] will terminate at the City limits provided that the pursuing officers have sufficient assistance from other sources. Ongoing participation from this [department/office] may 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 officers from the allied agency including but not limited to scene control, coordination and completion of supplemental reports, and any other reasonable assistance requested or needed.

307.8 WHEN PURSUIT INTERVENTION IS AUTHORIZED

Whenever practicable, an officershould seek approval from a supervisor before employing any intervention to stop the pursued vehicle. In deciding whether to use intervention tactics, officers/supervisors should balance the risks of allowing the pursuit to continue with the potential hazards to the public arising from the use of each tactic, the officers, and persons in or on the pursued vehicle to determine which, if any, intervention tactic may be reasonable.

307.8.1 USE OF FIREARMS

Regarding use of firearms, see the Department's Use of Force policy.

307.8.2 INTERVENTION STANDARDS

Any 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 force, including deadly force, and subject to the policies guiding such use. Officers should consider these facts and requirements prior to deciding how, when, where, and if an intervention tactic should be employed.

(a) Blocking should only be used after giving consideration to the following:

1. The technique should only be used by officers who have received training in the technique.
2. The need to immediately stop the suspect vehicle or prevent it from leaving reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
3. It reasonably appears the technique will contain or prevent the pursuit.

(b) The PIT should only be used after giving consideration to the following:

1. The technique should only be used by officers who have received training in the technique, including speed restrictions.
2. Supervisory approval should be obtained before using the technique.

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3. The need to immediately stop the suspect vehicle reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
4. It reasonably appears the technique will terminate or prevent the pursuit.

(c) Ramming a fleeing vehicle should only be done after giving consideration to the following:

1. Supervisory approval should be obtained before using the technique.
2. The need to immediately stop the suspect vehicle reasonably appears to substantially outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
3. It reasonably appears the technique will terminate or prevent the pursuit.
4. Ramming may be used only under circumstances when deadly force would be authorized.
5. Ramming may be used when all other reasonable alternatives have been exhausted or reasonably appear ineffective.

(d) Before attempting to box a suspect vehicle during a pursuit the following should be considered:

1. The technique should only be used by officers who have received training in the technique.
2. Supervisory approval should be obtained before using the technique.
3. The need to immediately stop the suspect vehicle reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
4. It reasonably appears the technique will terminate or prevent the pursuit.

(e) Tire deflation devices should only be used after considering the following:

1. Tire deflation devices should only be used by officers who have received training in their use.
2. Supervisory approval should be obtained before using tire deflation devices.
3. The need to immediately stop the suspect vehicle reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
4. It reasonably appears the use will terminate or prevent the pursuit.
5. Tire deflation devices should not be used when the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children, except in extraordinary circumstances.
6. Due to the increased risk to officers deploying tire deflation devices, such deployment should be communicated to all involved personnel.

(f) Roadblocks should only be used after considering the following:

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1. Roadblocks should only be used by officers who have received training in their use.
2. Supervisory approval should be obtained before using the technique.
3. The need to immediately stop the suspect vehicle reasonably appears to substantially outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
4. It reasonably appears the technique will terminate or prevent the pursuit. Roadblocks may be used only under circumstances when deadly force would be authorized.
5. Roadblocks may be used when all other reasonable alternatives have been exhausted or reasonably appear ineffective.

307.8.3 CAPTURE OF SUSPECTS

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Officers shall use only that amount of force, which reasonably appears necessary under the circumstances, to accomplish a legitimate law enforcement purpose.

Unless relieved by a supervisor, the primary pursuing officer should coordinate efforts to apprehend the suspects following the pursuit. Officers should consider safety of the public and the involved officers when formulating plans for setting up perimeters or for containing and capturing the suspects.

307.8.4 STARCHASE PURSUIT MANAGEMENT SYSTEM

The StarChase system allows an officer to remotely affix a GPS tracking device to a suspect vehicle using an air pressure launching system installed on the front of a police vehicle. Once the tracker is affixed, the vehicles location can be tracked by personnel (StarChase monitor) using a computer with an internet connection.

(a) For the purpose of clarity of communications, radio traffic should identify the device as "StarChase"

(b) StarChase equipment will only be operated by officers who have been trained in its use.

(c) Except as specified below, officers shall use their own judgement regarding affixing a StarChase tag upon a pursued vehicle and do not need prior approval from a supervisor.

Equipment Testing:

Officers assigned to StarChase equipped vehicles shall perform the following system checks at the beginning of their work week:

(a) Check the StarChase GPS tracker housing unit located on the front bumper of the patrol vehicle to ensure two StarChase GPS darts (tags) are present.

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(b) Activate the StarChase system deployment unit to ensure proper functionality.

When Use is Authorized:

StarChase equipment shall only be used to apprehend a fleeing suspect or suspect likely to flee in a vehicle under exigent circumstances. The device shall not be used to monitor or track a vehicle outside the scope of immediate apprehension.

Deployment of the StarChase system may be done prior to the attempted stop or during the pursuit of any violator whose actions are outlined under 307.3.2 (b), (c), or (d).

(a) When the violator is believed to be a violent felon who poses a significant, ongoing threat to public safety.

(b) When the violator is believed to be a violent misdemeanant, armed, and poses a significant an ongoing threat to public safety.

(c) Suspected intoxicated drivers where the driving of the subject PRIOR to the attempted stop already presented an intolerable risk of injury or death to persons other than the subject.

In addition, StarChase may also be deployed under the following circumstances.

(a) Prior to the attempted stop of any violator for a felony offense.

(b) When a violator is driving in a non-hazardous manner but willfully failing to yield to emergency lights and siren.

Based on communication limitations, StarChase may not be used to assist outside agencies who pursue a vehicle into our jurisdiction unless.

(a) The pursuit meets the criteria listed under this policy and

(b) The outside agency relinquishes complete control of the pursuit to our agency.

Prior to deployment officers should make every attempt to.

(a) Advised dispatch of the impending use and provided them with their patrol vehicle number.

(b) Provide detail description of the suspect vehicle.

(c) Provide a detail description of all occupants of the vehicle if known.

Safety Considerations:

All safety decisions related to the discharge of a StarChase tag shall be evaluated by the operator prior to deployment. While supervisors may direct or approve the deployment of a StarChase equipped patrol car in a pursuit and / or the discharge of a tag, safety decisions related to maneuvering around other involved vehicles and the actual discharge of the device will be evaluated by the operator prior to deployment. In accordance with policy, the safety of officers, uninvolved persons and persons inside the pursued vehicle shall be considered. The following decisions are specifically included.

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(a) Whether the officer can safely maneuver close enough to the suspect vehicle to come within targeting range.

(b) Whether the officer can safely maneuver around any other vehicle involved in the pursuit.

(c) Whether any circumstance would indicate the device would not work (e.g. weather conditions, suspect vehicle weaving, etc.)

StarChase equipped patrol cars, with approval of a supervisor, are authorized to respond Code 3 to join a pursuit for potential use of the device.

(a) Unless directed otherwise, the StarChase equipped vehicle will join the pursuit at the rear of authorized pursuing vehicles until cleared to maneuver around the

(b) Once a StarChase equipped vehicle joins a pursuit, it becomes an authorized unit as it relates to the number of authorized pursing vehicles.

(c) StarChase equipped vehicles may maneuver around other pursuing vehicles only when deemed safe and only with the specific permission from the unit in front of them. Permission is to be sought and acknowledged one maneuver at a time. Officers driving the StarChase equipped vehicles will identify which side of the overtaken vehicle they will pass on.

Post-Deployment:

Officers should broadcast immediately that the StarChase device has been deployed, and if the deployment was successful or not.

If a StarChase tag is successfully deployed on a vehicle that is pursuable per this policy, officers and supervisors should evaluate the need to continue the visual pursuit of the suspect vehicle. This evaluation should include all the "factors to consider" outlined in this policy, as well as the potential fallibility of the StarChase system.

If a StarChase tag is successfully deployed prior to the attempted stop of a vehicle that is not pursuable per this policy, officers shall initiate the following tactics.

(a) Attempt to perform a traditional traffic stop on the vehicle using appropriate tactics.

(b) If the vehicle flees officers should deactivate their emergency lights and siren, drive in a non-emergency manner (obeying all the rules of the roadway), and fall back significantly from the suspect vehicle to indicate to the suspect that they are not being pursued or followed.

(c) The primary officer or supervisor should then monitor updates from the communication center and direct officers to appropriate locations in order to apprehend the suspect.

(d) Unless authorized by a supervisor, officers coordinated response to apprehend the suspect shall be done in a non-emergency manner (obeying all the rules of the roadway).

(e) No officer who is driving a moving patrol vehicle will access the StarChase mapping website as this creates an unnecessary hazard.

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Communication Center Responsibilities:

The communication supervisor will ensure the appropriate number of dispatchers are logged into the StarChase mapping website at all times.

Upon being advised that the StarChase system has been deployed, the communication center will be responsible for the following.

(a) Immediately begin to monitor the suspect vehicles location through the StarChase Mapping website.

(b) Provide regular updates on the suspect vehicle's location, direction of travel and speed to the officers involved.

(c) Advise neighboring agencies when the suspect vehicle is likely to enter their jurisdiction, and if their assistance is being requested.

Reporting Requirements:

Officers should make every attempt to retrieve any GPS tracking dart that is deployed. If used to track a vehicle during the event, Officers should include the GPS tracking dart serial number in their police report.

Supervisors shall download the Activity Detail Report from the StarChase mapping website and ensure it is attached to the related crime report.

Supervisors will be responsible for issuing replacement GPS tacking darts following a deployment. When doing so they will email the departmental StarChase manager the serial number of the replacement dart as well as the patrol vehicle number it was assigned to.

307.9 REPORTING REQUIREMENTS

All appropriate reports should be completed to comply with applicable laws, policies, and procedures.

(a) The primary officer should complete appropriate crime/arrest reports.

(b) 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.

(c) After first obtaining the available information, the involved, or if unavailable on-duty, field supervisor shall promptly complete a Supervisor's Log or interoffice memorandum, briefly summarizing the pursuit to the Chief of Police or the authorized designee. This log or memorandum should include, at a minimum:

1. Date and time of pursuit.
2. Initial reason and circumstances surrounding the pursuit.
3. Length of pursuit in distance and time, including the starting and termination points.

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4. Involved units and officers.
5. Alleged offenses.
6. Whether a suspect was apprehended, as well as the means and methods used.
7. Any use of force that occurred during the vehicle pursuit.
   (a) Any use of force by a member should be documented in the appropriate report (See the Use of Force Policy).
8. Any injuries and/or medical treatment.
9. Any property or equipment damage.
10. Name of supervisor at scene or who handled the incident.

(d) After receiving copies of reports, logs, and other pertinent information, the Chief of Police or the authorized designee should conduct or assign the completion of a post-pursuit review.

Annually, the Chief of Police should direct a documented review and analysis of [department/office] vehicle pursuit reports to minimally include policy suitability, policy compliance, and training or equipment needs.

307.9.1 REGULAR AND PERIODIC PURSUIT TRAINING

The Personnel and Training Administrator shall make available to all officers initial and supplementary Police Officer Standard Training (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.

307.9.2 POLICY REVIEW

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.

307.9.3 ANNUAL ANALYSIS

Annually, the Internal Affairs Unit will conduct a documented analysis of all pursuits carried out by officers of this Department and forward the report to the Chief of Police. The analysis will look for patterns or trends that indicate training needs anda review of pursuit policies and reporting procedures.

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307.10 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.

307.11 REVISIONS

Enacted: December 17, 2007

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Revised: July 3, 2009

Revised: February 7, 2010

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Revised: May 23, 2016

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Revised: September 23, 2020

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Revised: January 2, 2023

Revised: April 28, 2023

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Officer Response to Calls

308.1 PURPOSE AND SCOPE

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

308.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.2.1, 41.2.4, 61.2.2, 81.2.6

308.2 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 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.

308.2.1 EMERGENCY CALLS

An emergency that may warrant Code-3 response includes incidents that pose immediate danger to the public, life-threatening situations, responding to another officer's request for immediate assistance or other incident requiring quick police response where the hazards posed by a delay outweigh the hazards of an emergency Code-3 response.

308.3 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate threat to the safety of officers, or assistance is needed to prevent imminent serious harm to a citizen. In any event, where a situation has stabilized and emergency response is not required, the requesting officer shall immediately notify the Communications Center.

If circumstances permit, the requesting officer should give the following information:

- The unit number
- The location
- The reason for the request and type of emergency
- The number of units required

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308.3.1 NUMBER OF UNITS ASSIGNED
A minimum of two units should respond to an emergency call Code-3 unless the Watch Commander or the field supervisor authorizes additional unit(s).

308.4 INITIATING CODE 3 RESPONSE

If an officer believes a Code-3 response to any call is appropriate, the officer shall immediately notify the Communications Center unless such notification would jeopardize the safety of other officers involved in an incident. Generally, a minimum of two units should respond Code-3 to any situation. Should additional officers believe a Code-3 response is appropriate, the officers shall immediately notify the the Communications Center unless such notification would jeopardize the safety of other officers involved in an incident. The Watch Commander or field supervisor will make a determination as to whether two or more officers driving Code-3 is appropriate.

308.5 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 the Communications Center. An officer shall also discontinue the Code-3 response when directed by a supervisor.

Upon receiving authorization or determining a Code-3 response is appropriate, an officer shall immediately give the location from which he/she is responding.

308.6 COMMUNICATIONS RESPONSIBILITIES

Dispatchers are responsible for monitoring all radio traffic when officers are responding Code-3. When officers are responding Code-3 or are requesting emergency assistance, the dispatcher shall:

(a) Attempt to assign the closest available unit to the location requiring assistance.

(b) Confirm a field supervisor or Watch Commander acknowledges the Code-3 response.

(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.

(g) Document pertinent radio traffic into the Computer Aided Dispatch System.

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308.7 SUPERVISORY RESPONSIBILITIES

Upon being notified that a Code-3 response has been initiated, the Watch Commander or the field supervisor shall verify the following:

(a) The proper response has been initiated.

(b) No more than those units reasonably necessary under the circumstances are involved in the response.

(c) Affected outside jurisdictions are being notified as practical.

The field supervisor shall monitor the response until it has been stabilized or terminated and assert control by directing units into or out of the response if necessary. If, in the supervisor's judgment, the circumstances require additional units to be assigned a Code-3 response, the supervisor may do so.

It is the supervisor's responsibility to terminate a Code-3 response that, in his/her judgment is inappropriate due to the circumstances.

When making the decision to authorize a Code-3 response, the Watch Commander or the field supervisor should consider the following:

- The type of call
- The necessity of a timely response
- Traffic and roadway conditions
- The location of the responding units

308.8 FAILURE OF EMERGENCY EQUIPMENT

If the emergency equipment on the vehicle should fail to operate, the officer must terminate the Code-3 response and respond accordingly. In all cases, the officer shall notify the Watch Commander, field supervisor, or the Communications Center of the equipment failure so that another unit may be assigned to the emergency response.

308.9 REVISIONS

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Canines

309.1 PURPOSE AND SCOPE

The Canine Program was established to augment police services to the community. Highly skilled and trained teams of handlers and canines have evolved from the program and are used to supplement police operations to locate individuals, contraband and to apprehend criminal offenders.

309.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.1.4, 84.1.4

309.2 GUIDELINES FOR THE USE OF CANINES

A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has either committed or threatened to commit any serious offense and if any of the following conditions exist:

(a) There is a reasonable belief that the individual poses an imminent threat of violence or serious harm to the public, any officer, or the handler.

(b) The individual is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.

(c) The individual(s) is/are believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.

It is recognized that situations may arise that do not fall within the provisions set forth in this policy. In any such case, a standard of objective reasonableness shall be used to review the decision to use a canine in view of the totality of the circumstances.

Absent 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 the individual.

Once the individual has been located and no longer reasonably appears to represent a threat or risk of escape, the canine should be placed in a down-stay or otherwise secured as soon as it becomes reasonably practical.

309.2.1 PREPARATION FOR UTILIZING A CANINE

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

(a) The individual's age or estimate thereof.

(b) The nature of the suspected offense.

(c) Any potential danger to the public and/or other officers at the scene if the canine is released.

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(d) The degree of resistance or threatened resistance, if any, the subject has shown.

(e) The potential for escape or flight if the police dog is not utilized.

(f) The potential for injury to officers or the public caused by the suspect if the canine is not utilized.

As circumstances permit, the canine handler should make every reasonable effort to communicate and coordinate with other involved personnel to minimize the risk of unintended injury.

Generally, the decision whether to deploy the dog shall remain with the handler. The handler will evaluate each situation and determine if the use of the canine is technically feasible. However, a supervisor sufficiently apprised of the situation shall have the ultimate authroity regarding the deployment of the dog.

309.2.2 WARNINGS GIVEN TO ANNOUNCE THE USE OF A CANINE

Unless it would otherwise increase the risk of injury or escape, a clearly audible warning to announce that a police service dog will be released if the person does not surrender, shall be made prior to releasing a police service dog. The handler should allow a reasonable time for a suspect to surrender. All audible warnings shall be recorded and retained pursuant to the provisions in this Policy Manual.

The police service dog handler, when practical, shall first advise the supervisor of their decision if a verbal warning is not given prior to releasing the police service dog. In the event of an apprehension, the handler shall document in any related report whether or not a verbal warning was given and, if none was given, the reasons why.

309.2.3 USE OF BOMB/EXPLOSIVE DETECTION DOGS

Because of the high risk of danger to the public and officers when a bomb or other explosive device is suspected, the use of a trained explosive detection dog team may be warranted. When available, a trained explosive detection dog team may be used in accordance with current law and under the following circumstances:

(a) To assist in the search of a building, structure, area, vehicle or article where an actual or suspected explosive device has been reported or located.

(b) To conduct preventative searches at locations such as special events, VIP visits, official buildings and other restricted areas. Because a dog sniff may be considered a search, such searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.

(c) To assist with searches at transportation facilities and vehicles (e.g., buses, airplanes and trains).

(d) To assist in the search of scenes where an explosion has occurred and an explosive device or secondary explosive device is suspected.

(e) At no time will a detection dog be used to render a suspected device safe or clear.

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309.2.4 USE OF NARCOTIC-DETECTION CANINES

A narcotic-detection-trained canine may be used in accordance with current law under the following circumstances:

(a) To assist in the search for narcotics during a search warrant service.

(b) To obtain a search warrant by using the detection canine in support of probable cause.

(c) To search vehicles, buildings, bags and any other articles deemed necessary. A narcotic-detection canine will not be used to search a person for narcotics.

309.2.5 GUIDELINES FOR NON-APPREHENSION USE

Because canines have senses far superior to those of humans, they may often be effectively utilized to track or search for non-criminals (e.g. lost children, individuals who may be disoriented or in need of medical attention) or even suspects wanted for minor criminal offenses. In such circumstances, it will be necessary for the handler to evaluate the conditions and ability of the canine to determine the feasibility of such an application.

(a) Absent a change in circumstances that present an imminent threat to officers, the canine or the public, such applications should be conducted on leash or under such conditions that will minimize the likelihood that the canine will bite or otherwise injure the individual.

(b) Throughout the deployment of the canine in such circumstances, the handler should consider issuing periodic verbal assurances that the canine will not bite or hurt the person.

(c) Unless otherwise directed by a supervisor, assisting personnel should take direction from the handler in order to minimize interference with the canine.

(d) Once the individual has been located, the canine should be placed in a down stay or otherwise secured as soon as it becomes reasonably practicable.

309.2.6 REPORTING CANINE USE, BITES AND INJURIES

Whenever the police service dog is deployed and it results in an injury to another person, a supervisor should be promptly notified. The injured party shall be promptly treated by emergency medical services personnel and, if appropriate, transported to an appropriate medical facility for further treatment. If the injured party is in custody, an officer should remain with the suspect until treatment has been rendered. Whenever the police service dog is deployed and it results in an injury to another person, a Police Service Dog Contact (PSD) Packet will be required (whether it is an intentional PSD apprehension or a non-deployed contact). Each individual handler will be responsible for putting together the PSD Contact Packet, which shall include the following:

(a) All case and supplemental reports regarding the incident.

(b) Copies of all photographs of injuries or lack thereof and any other pertinent photographs (e.g. photos of weapons possessed by the suspect(s) or photos of the area where the suspect(s) was hiding).

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(c) Copies of all digital recordings including, but not limited to, associated radio traffic, audio/video recordings of PSD announcements, and audio/video recordings of the PSD apprehension or non-deployed contact.

(d) Any other pertinent information/documentation related to the PSD apprehension or non-deployed contact.

These documents and associated items shall be provided to the Canine Unit Supervisor for review. The Canine Unit Supervisor will then author a memorandum, which will include a summary of the incident, a review of the incident, and a finding/recommendation as it relates to the PSD deployment. The Canine Unit Supervisor will next route the memorandum to the Canine Unit Manager and the Special Operations Division Commander for approval. Once approved, the entire PSD Contact Packet will be assigned a number and given to the Internal Affairs Manager for retention. PSD Contact Packets will be retained for a minimum of 5 years, as with other administrative reviews retained in the Internal Affairs Unit File (refer to the Personnel Files Policy).

Patrol Supervisors will still be required to carry out a Blue Team entry for the reportable use of force.

Photographs of the bite or injury, or lack thereof, shall be taken as soon as practicable after tending to the immediate needs of the injured party. Photographs shall be retained as evidence in accordance with current Department evidence procedures. If a subject alleges of an injury that is not visible, a supervisor shall be notified and the location of the alleged injury should be photographed as described above.

The Canine Unit Supervisor will maintain liaison with the City of Hayward Animal Services Bureau to ensure that information regarding canine bites is not retained by its office. Canines used by law enforcement agencies are exempt from impoundment and reporting requirements to the Animal Services Bureau. However, the canine shall be made available for examination at any reasonable time if requested by the local health department. The canine handler shall also notify the local health department if the canine exhibits any abnormal behavior after a bite (Health and Safety Code § 121685).

309.2.7 REPORTING CANINE INJURIES

In the event that a canine is injured, the injury will be immediately reported to the Watch Commander.

Medical care for any injured canine shall follow the protocol established in the Medical Care of the Canine section of this policy.

The injury will be documented on a Canine Use Report Form.

309.2.8 ASSIGNMENT OF CANINES

The canine teams shall be assigned to the Special Operations Division to supplement and assist the Department.

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Canine teams should function primarily as cover units however; they may be assigned by the Watch Commander to other functions based on the needs of the Department at the time.

Canine teams should not be assigned to handle matters that will take them out of service for extended periods of time unless absolutely necessary and only with the approval of the Watch Commander.

309.3 REQUEST FOR USE OF CANINE TEAMS

Personnel within the Department are encouraged to freely solicit the use of the police service dogs. Bureaus outside of the Special Operations Division requesting to use a police service dog team shall do so through the on-duty Watch Commander.

309.3.1 REQUEST FOR ASSISTANCE FROM OTHER AGENCIES

The Watch Commander must approve all requests for police service dog assistance from outside agencies subject to the following provisions:

(a) Police service dog teams shall not be used outside the City of Hayward to perform any assignment that is not consistent with this policy.

(b) The handler has the ultimate authority to decide whether the police service dog should be used for any specific assignment.

(c) Police service dog teams shall not be called out while off-duty or used outside the City of Hayward unless authorized by the Watch Commander.

(d) It shall be the responsibility of the canine handler to coordinate with outside agency personnel in order to minimize the risk of unintended injury.

(e) It shall be the responsibility of the Police Service Dog handler to complete all necessary reports.

309.3.2 REQUEST FOR PUBLIC DEMONSTRATIONS

All public requests for a canine team shall be approved by the Unit Coordinator prior to making any commitment.

Handlers shall not demonstrate any apprehension work to the public unless authorized to do so by the Unit Coordinator.

309.4 SELECTION OF CANINE HANDLERS

The following are the minimum qualifications for the assignment of canine handler:

(a) Hayward Police Department officer currently off probation

(b) Reside in an adequately fenced, single-family, residence (minimum five-foot high fence with locking gates)

(c) Have a garage which can be secured and accommodate a canine unit

(d) Live within 30 minutes travel time from the Hayward City limits

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(e) Agree to be assigned to the position for a minimum of three years

309.5 CANINE HANDLER RESPONSIBILITIES

Police service dog handlers shall be responsible for, but not limited to, the following:

309.5.1 AVAILABILITY

The handler shall be available for call-out under conditions specified by the Canine Unit Manager.

309.5.2 CARE FOR THE CANINE AND EQUIPMENT

The handler shall ultimately be responsible for the health and welfare of the canine and shall ensure that the canine receives proper nutrition, grooming, training, medical care, affection, and living conditions. The handler will be responsible for the following:

(a) Unless required by a particular application, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.

(b) The handler shall maintain all Department equipment under his/her control in a clean and serviceable condition.

(c) The canine handler may take home their Department assigned canine patrol vehicle. All policies relating to the use and safe operation of a police vehicle shall be adhered to by the canine handler. Whenever a canine handler takes his/her assigned vehicle home, the canine handler shall park the vehicle out of public view, preferably in a garage. The canine handler shall not use the canine vehicle for personal use. The vehicle take home privilege may be restricted or suspended by the Chief of Police or the Chief's designee based upon the operational, fleet, equipment, security and/or other needs of the Department.

(d) Handlers shall permit the Canine Unit Manager or Supervisor to conduct spontaneous on-site inspections of affected areas of their residence as well as the canine unit, to verify that conditions and equipment conform to this policy.

(e) Any changes in the living status of the handler which may affect the lodging or environment of the canine shall be reported to the Canine Unit Supervisor as soon as possible.

(f) When off-duty, canines shall be maintained in kennels, provided by the City, at the homes of their handlers. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. When off-duty, canines may be let out of their kennels while under the direct control of their handlers.

(g) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.

(h) When off-duty, handlers shall not involve their canines in any activity or conduct unless approved in advance by the Canine Unit Supervisor or Watch Commander.

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309.5.3 KENNELING OF CANINE

(a) As kenneling a police service dog (PSD) for extensive periods can adversely affect the behavior and serviceability of the PSD, extensive kenneling is discouraged.

(b) The City shall pay the cost of kenneling the canine in an approved kennel while the assigned handler is on approved vacation leave, up to the maximum number of vacation days earned by the canine handler in that calendar year.

1. Where a handler takes one full week of vacation time, the City shall also pay the cost of kenneling the canine on the regular off days immediately preceding and/or immediately following the approved vacation time.

2. Where a handler takes two or more full weeks of vacation time, the City shall also pay the cost of kenneling the canine on the regular off days in between the two or more full weeks of approved vacation time.

3. If the canine is kenneled for less than a full work week or only during the officer's scheduled weekend, the days will be deducted from the original per year total (not to exceed the maximum number of vacation days accrued during that calendar year).

(c) The City shall also pay for all kenneling cost approved by the Canine Unit Manager. The Canine Unit Manager or Canine Unit Supervisory shall be responsible to approve and maintain record of approval of kenneling.

(d) Under no circumstances will the canine be lodged at another location unless approved by the Canine Unit Supervisor or Canine Unit Manager.

309.6 MEDICAL CARE OF THE CANINE

All medical attention shall be rendered by the designated police service dog veterinarian, except during an emergency as provided in this policy.

309.6.1 NON-EMERGENCY MEDICAL CARE

Non-emergency medical care will be coordinated through the Canine Unit Supervisor.

Any indication that a canine is not in good physical condition shall be reported to the Canine Unit Supervisor or the Canine Unit Manager as soon as practical.

All records of medical treatment shall be maintained in the police service dog's individual record file.

309.6.2 EMERGENCY MEDICAL CARE

The handler shall notify the Canine Unit Supervisor as soon as practicable when emergency medical care for the canine is required.

Depending on the severity of the injury or illness, the canine shall either be treated by the designated veterinarian or transported to a designated emergency medical facility for treatment. If the handler and dog are out of the area, the handler may use the nearest available veterinarian.

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309.6.3 REPORTING DEPLOYMENTS, BITES AND INJURIES

Whenever a canine deployment results in a bite or causes injury to an intended suspect, a supervisor should be promptly notified and the injuries documented in a canine use report. The injured person shall be promptly treated by emergency medical services personnel and, if appropriate, transported to an appropriate medical facility for further treatment. The deployment and injuries should also be included in any related incident or arrest report.

Any unintended bite or injury caused by a canine, whether on- or off-duty, shall be promptly reported to the canine coordinator. Unintended bites or injuries caused by a canine should be documented in an administrative report, not in a canine use report.

If an individual alleges an injury, either visible or not visible, a supervisor shall be notified and both the individual's injured and uninjured areas shall be photographed as soon as practicable after first tending to the immediate needs of the injured party. Photographs shall be retained as evidence in accordance with current department evidence procedures. The photographs shall be retained until the criminal proceeding is completed and the time for any related civil proceeding has expired.

Canines used by law enforcement agencies are generally exempt from impoundment and reporting requirements. However, the canine shall be made available for examination at any reasonable time if requested by the local health department. The canine handler shall also notify the local health department if the canine exhibits any abnormal behavior after a bite (Health and Safety Code § 121685).

309.7 TRAINING

Before assignment in the field, each canine team 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 for such detection dogs by the California Narcotic Canine Association or other recognized and approved certification standards.

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.

309.7.1 CONTINUED TRAINING

Each canine team shall thereafter be recertified to current POST 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) Canine teams shall receive training as defined in the current contract with the department's canine training provider.

(b) Canine handlers are encouraged to engage in additional training with approval of the Unit Coordinator.

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(c) To ensure that all training is consistent, no handler, trainer, or outside vendor is authorized to train to a standard that is contrary to the policies of the Hayward Police Department.

(d) All canine training shall be conducted while on-duty unless otherwise approved by the Unit Coordinator or Watch Commander.

309.7.2 FAILURE TO SUCCESSFULLY COMPLETE POST TRAINING

No police service dog team failing POST police service dog certification or other recognized and approved certification standards shall be deployed in the field until certification is achieved. When practical, pending successful certification, the police service dog handler shall be temporarily reassigned to regular patrol duties.

309.7.3 TRAINING RECORDS

All police service dog training records shall be maintained in the service dog handler's training file.

309.8 CANINE UNIT COORDINATOR RESPONSIBILITIES

The Canine Unit Supervisor shall be selected from the special assignment process and shall report all Unit matters to the Canine Unit Manager. The Canine Unit Supervisor is responsible for, but not limited to, the following:

(a) Review all canine use reports to ensure compliance with policy and identify training needs.

(b) Maintain liaison with administrative staff, functional supervisors, vendor kennels, and other agency canine supervisors.

(c) Schedule all canine related activities.

309.9 CONTROLLED SUBSTANCE TRAINING AIDS

Controlled substance training aids are required to effectively train and maintain drug detecting dogs. Further, controlled substances can also be an effective training aid during training sessions for law enforcement personnel and the public. The procedures regarding Departmental Possession of Narcotic Detection Training Aids shall be followed and can be found in the Departmental Possession of Narcotic Detection Training Aids procedure.

309.9.1 CANINE IN PUBLIC AREAS

The canine should be kept on a leash when in areas that allow access to the public. Exceptions to this rule would include specific law enforcement operations for which the canine is trained.

(a) A canine shall not be left unattended in any area to which the public may have access.

(b) When the canine vehicle is left unattended, all windows and doors shall be secured in such a manner as to prevent unauthorized access to the canine. The handler shall also ensure that the unattended vehicle remains inhabitable for the canine.

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

309.10 HANDLER COMPENSATION

The canine handler shall be available for call-out under conditions specified by the canine coordinator.

The canine handler shall be compensated for time spent in the care, feeding, grooming, and other needs of the canine in accordance with the Fair Labor Standards Act (FLSA), and according to the terms of the collective bargaining agreement (29 USC § 207).

309.11 NON-DEPLOYED CANINE CONTACT

Anytime a person is knocked down, bitten, shoved, pawed, or otherwise physically contacted by a canine without handler direction whether on or off-duty, the handler shall:

(a) Examine the affected area(s) on the person, and ensure that prompt medical care is provided if appropriate, including any first aid or summoning of qualified medical personnel or ambulance irrespective of the perceived seriousness of the bite or injury.

(b) As soon as practical, contact the on-duty Watch Commander. The Watch Commander shall assign a supervisor to respond to the location. The assigned supervisor shall follow the protocol established in this policy.

(c) Take photographs of the person's injury, or absence of injury, along with any injuries to the canine. All photographs shall be placed into evidence per procedure.

(d) Attempt to obtain a recorded or written statement from the involved person and any witnesses.

(e) Attempt to obtain a signed medical release form from the involved person.

(f) Document an Incident Report containing the following:

1. The details surrounding the incident.
2. The nature and description of any injuries or lack thereof.
3. All witness and involved subject statements.
4. The description of any medical care or treatment that was rendered or refused.

If the incident occurs while off-duty, the handler shall complete this report immediately upon return to duty and forward it to the Canine Unit Coordinator for review and approval.

If on-duty, the handler shall complete the Incident Report and turn it in to the shift supervisor for review and approval before going off-duty.

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309.12 SUPERVISOR RESPONSIBILITY OF NON-DEPLOYED CANINE CONTACT

Prior to the end of shift, the shift or assigned supervisor shall:

(a) Review and approve all related reports.

(b) Complete a "Non-Deployed Canine Contact" report in the Blue Team system.

(c) Forward the Blue Team and all associated documents to the Canine Unit Coordinator.

(d) Notify the appropriate Division Commander of the incident.

The Canine Unit Coordinator shall:

(a) Conduct a review of the Blue Team entry and all associated documents.

(b) Document in a memorandum his/her findings on whether the incident was preventable or non-preventable.

(c) Forward his/her memorandum and all associated documents to the Canine Unit Manager for review.

The Canine Unit Manager shall:

(a) Review the memorandum and associated documents and forward them to the appropriate Division Commander with any recommendations.

(b) After review and final disposition by the Division Commander, ensure all associated documents are forwarded with the Blue Team to the Internal Affairs Unit for file storage.

The Division Commander shall:

(a) Review all documents and determine the appropriate course of action regarding the incident.

(b) Document in a memorandum a final disposition regarding the matter and any action(s) taken.

309.13 CANINE INJURY AND MEDICAL CARE

In the event that a canine is injured, or there is an indication that the canine is not in good physical condition, the injury or condition will be reported to the canine coordinator or Watch Commander as soon as practicable and appropriately documented.

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency where treatment should be obtained from the nearest available veterinarian. All records of medical treatment shall be maintained in the handler’s personnel file.

309.14 TRAINING

Before assignment in the field, each canine team shall be trained and certified to meet current POST guidelines or other recognized and approved certification standards. Cross-trained canine teams or those canine teams trained exclusively for the detection of narcotics and/or explosives

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also shall be trained and certified by the California Narcotic Canine Association (CNCA) or other recognized and approved certification standards established for their particular skills.

The canine coordinator shall be responsible for scheduling periodic training for all [department/office] members in order to familiarize them with how to conduct themselves in the presence of [department/office] canines. Because canines may be exposed to dangerous substances such as opioids, as resources are available, the canine coordinator should also schedule periodic training for the canine handlers about the risks of exposure and treatment for it.

All canine training should be conducted while on-duty unless otherwise approved by the canine coordinator or Watch Commander.

309.14.1 CONTINUED TRAINING

Each canine team shall thereafter be recertified to a current POST, CNCA or other recognized and approved certification standards on an annual basis. Additional training considerations are as follows:

(a) Canine teams should receive training as defined in the current contract with the Hayward Police Department canine training provider.

(b) Canine handlers are encouraged to engage in additional training with approval of the canine coordinator.

(c) To ensure that all training is consistent, no handler, trainer or outside vendor is authorized to train to a standard that is not reviewed and approved by this department.

309.14.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

Any canine team failing to graduate or obtain certification shall not be deployed in the field for tasks the team is not certified to perform until graduation or certification is achieved. When reasonably practicable, pending successful certification, the canine handler shall be temporarily reassigned to regular patrol duties.

309.14.3 TRAINING RECORDS

All canine training records shall be maintained in the canine handler's and the canine's training file.

309.14.4 TRAINING AIDS

Training aids are required to effectively train and maintain the skills of canines. Officers possessing, using or transporting controlled substances or explosives for canine training purposes must comply with federal and state requirements. Alternatively, the Hayward Police Department may work with outside trainers with the applicable licenses or permits.

309.14.5 CONTROLLED SUBSTANCE TRAINING AIDS

Officers acting in the performance of their official duties may possess or transfer controlled substances for the purpose of narcotics-detection canine training in compliance with state and federal laws (Health & Safety Code § 11367.5; 21 USC § 823(f)).

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The Chief of Police or the authorized designee may authorize a member to seek a court order to allow controlled substances seized by the Hayward Police Department to be possessed by the member or a narcotics-detection canine trainer who is working under the direction of this [department/office] for training purposes, provided the controlled substances are no longer needed as criminal evidence.

As an alternative, the Chief of Police or the authorized designee may request narcotics training aids from the Drug Enforcement Administration (DEA).

These procedures are not required if the canine handler uses commercially available synthetic substances that are not controlled narcotics.

309.14.6 CONTROLLED SUBSTANCE PROCEDURES

Due to the responsibilities and liabilities involved with possessing readily usable amounts of controlled substances and the ever-present danger of the canine's accidental ingestion of these controlled substances, the following procedures shall be strictly followed:

(a) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler or trainer.

(b) The weight and test results shall be recorded and maintained by this [department/office].

(c) Any person possessing controlled substance training samples pursuant to court order or DEA registration shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.

(d) All controlled substance training samples will be inspected, weighed, and tested quarterly. The results of the quarterly testing shall be recorded and maintained by the canine coordinator with a copy forwarded to the dispensing agency.

(e) All controlled substance training samples will be stored in locked, airtight, and watertight cases at all times, except during training. The locked cases shall be secured in the trunk of the canine handler's assigned patrol vehicle during transport and stored in an appropriate locked container. There are no exceptions to this procedure.

(f) The canine coordinator shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.

(g) Any unusable controlled substance training samples shall be returned to the Property and Evidence Bureau or to the dispensing agency.

(h) All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.

309.14.7 EXPLOSIVE TRAINING AIDS

Officers may possess, transport, store, or use explosives or destructive devices in compliance with state and federal laws (Penal Code § 18800; 18 USC § 842; 27 CFR 555.41).

Explosive training aids designed specifically for canine teams should be used whenever feasible. Due to the safety concerns in the handling and transportation of explosives, inert or non-hazardous

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training aids should be employed whenever feasible. The use of explosives or destructive devices for training aids by canine teams is subject to the following:

(a) All explosive training aids, when not in use, shall be properly stored in a secure facility appropriate for the type of materials.

(b) An inventory ledger shall be maintained to document the type and quantity of explosive training aids that are stored.

(c) The canine coordinator shall be responsible for verifying the explosive training aids on hand against the inventory ledger once each quarter.

(d) Only members of the canine team shall have access to the explosive training aids storage facility.

(e) A primary and secondary custodian will be designated to minimize the possibility of loss of explosive training aids during and after the training. Generally, the handler will be designated as the primary custodian while the trainer or authorized second person on-scene will be designated as the secondary custodian.

(f) Any lost or damaged explosive training aids shall be promptly reported to the canine coordinator, who will determine if any further action will be necessary. Any loss of explosives will be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

309.15 REVISIONS

Enacted: December 15, 2007

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Revised: February 18, 2009

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Domestic Violence

310.1 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.

310.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.2.5, 1.2.6, 1.2.7, 74.1.1, 74.1.2, 74.2.1, 82.2.1

310.1.2 DEFINITIONS

Definitions related to this policy include:

Abuse - means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury.

Domestic Violence - is abuse committed against an adult or minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

Cohabitant - means two unrelated adult persons living together for a substantial period of time, resulting in some permanence of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to:

- Sexual relations between the parties while sharing the same living quarters
- Sharing of income or expenses
- Joint use or ownership of property
- Whether the parties hold themselves out as husband and wife
- The continuity of the relationship
- The length of the relationship

The above definition of cohabitant is used for the application of enforcing Penal Code § 273.5. Family Code § 6209 expands the definition of cohabitant to include a person who regularly resides in the household for the application of enforcing Penal Code § 836(d).

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.

Officer/Deputy - means any law enforcement officer employed by a local police department or sheriff's department, consistent with Penal Code § 830.1.

Victim - means a person who is a victim of domestic violence.

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310.2 POLICY

The Hayward Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

310.3 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.

310.3.1 FELONY ARRESTS

In accordance with state law, an arrest should be made when there is probable cause to believe a felony has occurred.

310.4 INVESTIGATIONS

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

(a) Calls of reported, threatened, imminent or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.

(b) When practicable, officers should obtain and document statements from the victim, the suspect and any witnesses, including children, in or around the household or location of occurrence.

(c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.

(d) When practicable and legally permitted, video or audio record all significant statements and observations.

(e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Criminal Investigations 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.

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(g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement and make an arrest or seek an arrest warrant if appropriate.

(h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence. If the domestic violence involved threats of bodily harm, any firearm discovered in plain view or pursuant to consent or other lawful search must be taken into temporary custody (Penal Code § 18250).

(i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.

(j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:

1. Marital status of suspect and victim.
2. Whether the suspect lives on the premises with the victim.
3. Claims by the suspect that the victim provoked or perpetuated the violence.
4. The potential financial or child custody consequences of arrest.
5. The physical or emotional state of either party.
6. Use of drugs or alcohol by either party.
7. Denial that the abuse occurred where evidence indicates otherwise.
8. A request by the victim not to arrest the suspect.
9. Location of the incident (public/private).
10. Speculation that the complainant may not follow through with the prosecution.
11. The racial, cultural, social, professional position or sexual orientation of the victim or suspect.

310.4.1 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) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

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(c) When appropriate, officers should advise the victim of the availability of the Victim Information and Notification Everyday (VINE) Program. VINE is a free, computer-based telephone service that allows victims to check on an offender's custody status and register to receive automatic notification when an inmate is released from County Jail. The contact phone number for VINE is printed on the Hayward Domestic Violence Information Pamphlet.

310.4.2 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.

310.5 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.

(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).

310.5.1 RECORDING INJURIES AND STATEMENTS

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

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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 should be advised to contact the Criminal Investigations Bureau, in the event the injuries later become visible. An inspector/detective may be assigned to ensure the injuries are photographed during the course of preparing the case for court.

310.6 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 Communications Operators check whether any of the involved persons are subject to the terms of a court order.

310.7 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).

310.8 VERIFICATION OF COURT ORDERS

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

(a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.

    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.

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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.

310.9 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)

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,

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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).

310.10 REPORTS AND RECORDS

(a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.

(b) Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.

(c) Officers who seize any firearm, 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)).

310.11 RECORD-KEEPING AND DATA COLLECTION

This [department/office] shall maintain records of court orders related to domestic violence and the service status of each (Penal Code § 13710), as well as records on the number of domestic violence related calls reported to the [Department/Office], including whether weapons were used in the incident or whether the incident involved strangulation or suffocation (Penal Code § 13730). This information is to be reported to the Attorney General monthly. It shall be the responsibility of the Records Administrator to maintain and report this information as required.

310.12 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

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into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).

(b) At the request of the petitioner, an officer at the scene of a reported domestic violence incident shall serve a court order on a restrained person (Family Code § 6383; Penal Code § 13710).

(c) Any officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)).

(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).

(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).

310.13 PUBLIC ACCESS TO POLICY

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

310.14 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).

310.15 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).

310.16 REVISIONS

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Domestic Violence

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Revised: February 11, 2019

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Revised: February 10, 2023

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Search and Seizure

311.1 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 Hayward Police Department personnel to consider when dealing with search and seizure issues.

311.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.2.4, 42.2.2

311.2 POLICY

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

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

311.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

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Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

311.4 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

(a) Members of this department will strive to conduct searches with dignity and courtesy.

(b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.

(c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. . When conducting property searches related to search warrants, parole, or probation searches, officers should take overall photographs of the rooms or property searched prior to and after the search is completed to document the condition of the property. Photographs shall be placed into evidence. Justification for not taking overall photographs shall be memorialized in the associated report. 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.

311.5 DOCUMENTATION

With the exception of routine, cursory pat searches for reasons of officer safety, officers are responsible to document any search conducted either pursuant to a lawful warrant, or based on any of the exception criteria listed in the Policy Manual. The report should include 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

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- The results of the search, including a description of any property or contraband seized
- If the person searched is the opposite sex, any efforts to summon an officer of the same sex as the person being searched and the identification of any witness officer

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and Department policy have been met.

311.6 REVISIONS

Enacted: December 17, 2007

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Revised: February 7, 2010

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Revised: July 29, 2021

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Juvenile Operations

312.1 PURPOSE AND SCOPE

This Policy is to establish guidelines and operational procedures for the Department regarding aspects of preventing and combating juvenile delinquency.

312.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.1.3, 1.2.6, 1.2.7, 44.1.1, 44.1.2, 44.1.3, 44.2.1, 44.2.4

312.2 RESPONSIBILITY OF DEPARTMENT MEMBERS

The Hayward Police Department recognizes the importance of preventing and combating juvenile delinquency. The Department also further recognizes that traditional methods for dealing with juvenile offenders are not sufficient. To meet its commitment to provide exceptional services to the community, the Department participates in preventive programs and actions designed to prevent young people from developing criminal tendencies.

Officers have a wide range of alternatives they may employ when dealing with juvenile offenders from warnings to intake. Officers should use the least coercive alternative, consistent with preserving public safety, order, and individual liberty that is appropriate when deciding what action to take with juvenile offenders. Furthermore, it is the policy of the Hayward Police Department to implement problem-solving strategies through positive programs that deal with delinquency and youth crime.

All employees share in the responsibility for participating in and supporting the juvenile operations function to ensure that the appropriate action is taken in all cases where juveniles come to the attention of the Department. All sworn personnel will maintain a working knowledge of the California Welfare and Institutions Code concerning the handling of juveniles and familiarize themselves with the various support programs the Juvenile Court uses. Each officer assists, as applicable, in the design and implementation of programs intended to prevent and control delinquent and criminal behavior by juveniles.

312.2.1 TEMPORARY JUVENILE CUSTODY

When taking a juvenile into temporary custody, officers should select from the following alternatives the most appropriate course of action dependent upon the situation and needs of the juvenile:

- Divert the juvenile from the Court by release, counsel and release, release to parent or guardian on a Notice to Appear (NTA) to Juvenile Court, or referral to community resources (Diversion Program)
- Seek a Juvenile petition
- Seek a Juvenile petition and request a custody order

Refer to the Temporary Custody of Juveniles Policy for additional requirements.

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312.2.2 CRIMINAL JUSTICE DIVERSION PROGRAMS

The Alameda County Juvenile Probation Department contracts with the Hayward Police Department's Youth and Family Services Bureau (YFSB) to provide criminal justice diversion programs for juvenile offenders arrested and issued a Notice to Appear (NTA) for criminal behavior.

A Juvenile Sergeant and YFSB Counseling Supervisor review each NTA for diversion eligibility, refer eligible youth and families to YFSB diversion programs (NTA Diversion; Petty Theft Workshop) and/or outside service providers on a case by case basis, and refer ineligible or non-compliant NTA cases to the Alameda County Probation Department.

These criminal justice diversion programs provide an opportunity for juvenile offenders issued a NTA to be diverted from the juvenile justice system, the goal of such diversion being to provide community-level, individualized, family focused and "in-depth" interventions in order to reduce recidivism and the need for more expensive, intensive and restrictive responses by the Probation Department/Juvenile Court.

The Hayward Police Department currently does not provide a role in Social Service diversion programs, as these are handled by the Alameda County Health Department.

312.3 JUVENILE SPECIALISTS - SCHOOL RESOURCE OFFICERS

The Hayward Police Department recognizes the importance of having employees who are specially trained regarding the Juvenile Justice System. The School Resource Officers (SROs) serve as the Department's juvenile specialists and are assigned to the Investigation Division. The SROs assist in the development and implementation of delinquency prevention programs and act as the liaison between the Department, schools and other components of the Juvenile Justice System. This relationship ensures the Department's juvenile policies and procedures are consistent with other agencies within Alameda County.

312.3.1 COMMUNITY-BASED YOUTH PROGRAMS

The Department supports a philosophy of youth interaction and encourages all employees to volunteer their time and become active in community youth programs sponsored by the Hayward Unified School District (HUSD), Hayward Area Recreational District (HARD) and other organizations.

312.4 OUTSIDE COMMENT AND INPUT ON JUVENILE POLICIES

The School Resource Officer and his/her supervisor acts as a liaison between the Department and other juvenile agencies within Alameda County. The School Resource Officer and/or supervisor will encourage other agencies to review and comment on policies pertaining to juveniles. This activity may be formal or informal as the opportunity becomes available. The SRO and/or supervisor are responsible to submit comments through the chain of command.

312.5 JUVENILE POLICY DEVELOPMENT AND REVIEW

The Investigation Division Commander or his/her designee will meet annually with the Hayward Unified School District administration to review and obtain feedback on relevant juvenile and

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school resource programs currently in force. All elements of agency Juvenile Operations will be assessed to determine the need to continue, modify or discontinue a program. The Investigation Division Commander or his/her designee shall prepare a report summarizing that meeting. The report shall be submitted to the Chief of Police.

312.6 REVISIONS

Enacted: July 5, 2009

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Temporary Custody of Juveniles

313.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with rules regarding juveniles taken into temporary custody by members of the Hayward Police Department.

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

313.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.2.6, 44.2.1, 44.2.2, 44.2.3, 71.1.1, 71.2.1, 71.3.1, 71.3.2, 71.3.3, 71.4.1, 71.4.2, 71.4.3, 71.5.1, 82.1.2.

313.1.2 DEFINITIONS

Definitions related to this policy include:

Juvenile non-offender - An abused, neglected, dependent, or undocumented 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.

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(b) A juvenile handcuffed to a rail.

(c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.

(d) A juvenile being processed in a secure booking area when 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).

313.1.3 PHILOSOPHY

It shall be the philosophy of the Hayward Police Department to be especially responsive to the physical, psychological and emotional well-being of juveniles in our community. In making decisions about dispositions of juveniles in the care or custody of the Hayward Police Department, preference will be given to the alternative which least restricts the juvenile's freedom of movement, provided such alternative is compatible with the best interest of the minor and the community.

In furtherance of this philosophy, all Departmental personnel who detain or process juveniles shall complete initial training in the detention of juveniles and retraining at least once every three years. Review of the Peace Officer Standards and Training (POST) video "Temporary Detention of Juveniles in Law Enforcement Facilities" and receipt of the associated training supplement, as provided by the Board of State and Community Corrections, shall deem compliance. Documentation of training completion shall be maintained in the Department's Personnel and Training Bureau.

313.2 POLICY

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

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313.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the Hayward Police Department:

(a) Unconscious

(b) Seriously injured

(c) A known suicide risk or obviously severely emotionally disturbed

(d) Significantly intoxicated except when approved by the Watch Commander. A medical clearance shall be obtained for minors who are under the influence of drugs, alcohol or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).

(e) Extremely violent or continuously violent

Officers taking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation (15 CCR 1142; 15 CCR 1151).

These juveniles should not be held at the Hayward 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).

313.3.1 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY

When emergency medical attention is required for a juvenile, medical assistance will be called immediately. The Watch Commander shall be notified of the need for medical attention for the juvenile. Department members should administer first aid as applicable (15 CCR 1142).

313.3.2 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 themself, or any unusual behavior which may indicate the juvenile may harm themself while in either secure or non-secure custody (15 CCR 1142).

313.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Hayward 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 Hayward 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.

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Temporary Custody of Juveniles

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 Hayward Police Department (34 USC § 11133; Welfare and Institutions Code § 207.1).

313.4.1 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 Hayward 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).

313.4.2 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).

313.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Hayward 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.

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(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).

313.4.4 JUVENILE OFFENDER DETENTION ROOMS

The Hayward Police Department has provided juvenile detention rooms outside of the adult jail facility. These rooms are designed for the temporary detention of juvenile offenders. Authorized personnel placing juvenile offenders in detention rooms shall thoroughly search them and shall comply with the following:

(a) Firearms shall be secured in a designated firearm locker prior to entering any juvenile detention room. Department issued portable radios capable of summoning emergency assistance shall be worn by all law enforcement personnel entering a temporary detention room.

(b) It is the officer's responsibility to notify their supervisor that a detention has begun. The juvenile must be told the reason for incarceration, the length of time secure detention will last and that it may not exceed a total of six hours.

(c) Any juvenile placed in a locked detention room shall be separated according to sex and the severity of the crime (felony or misdemeanor) unless emergency circumstances will not allow for this type of segregation. When such separation is not possible, the Watch Commander or Sergeant shall be consulted for directions on how to proceed with the detention of the multiple juveniles involved.

(d) A written record will be maintained on the Juvenile Custody Log located on the Departmental Intranet site. This log will include the charges for which the juvenile is being detained, the circumstances that warrant a secured detention, the time the detention began, and the time it ended. Refer to this policy for further requirements.

(e) It is the responsibility of the officer to monitor the custody of the juvenile and to prepare the necessary paperwork to process the juvenile for release to a parent, guardian, or the appropriate juvenile custody facility. The Watch Commander and/or Patrol supervisor shall be notified in all cases when a juvenile is detained at this Department.

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(f) A thorough inspection of the detention room shall be conducted before placing a juvenile into the room. A second inspection shall be conducted after removing the juvenile. Any contraband left or damage noted to the room shall be photographed and documented in the crime report and additional charges added as appropriate.

(g) The juvenile detention rooms are inspected biennially by the Board of State and Community Corrections and the associated report is forwarded to the Chief of Police. The inspection reviews and verifies the Departments plan for fire prevention, fire evacuation, and fire suppression for the temporary detention room(s). To assist with fire evacuation, escape route maps are located throughout the police department. A copy of the most recent report shall be maintained in the Jail Administrator's office and available for administrative review at all times.

313.5 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).

313.6 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 Hayward 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.

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(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.

313.7 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(d); Welfare and Institutions Code § 208; 15 CCR 1144). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Hayward 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).

313.8 TEMPORARY CUSTODY REQUIREMENTS

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

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(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).

(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).

313.8.1 MONITORING OF JUVENILES IN TEMPORARY CUSTODY

Every juvenile that is being detained at the Hayward Police Department shall be personally monitored by a trained staff member at all times. This requirement provides for the safety and security of the juvenile and the facility, as well as escape prevention. This monitoring may be supplemented by video/audio equipment; however use of such equipment does not replace the requirement for personal monitoring. In addition to personal visual monitoring, face-to-face contact shall be made at least once every 30 minutes and the need for drinking water, restroom facility use, or other personal needs ascertained as provided in this policy.

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313.9 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 Hayward 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).

313.10 PERSONAL PROPERTY

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

313.11 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

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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).

313.11.1 JUVENILES NOT SECURED TO STATIONARY OBJECTS
The agency does not secure juveniles to stationary objects.

313.11.2 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).

(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.

313.12 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 Hayward Police Department (15 CCR 1142; 15 CCR 1047). The procedures will address:

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(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 within the same time frame (15 CCR 1046).

(h) A medical and operational review of deaths and suicide attempts pursuant to 15 CCR 1046.

(i) Evidence preservation.

313.13 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. The requirement to consult with legal counsel does not apply when (Welfare and Institutions Code § 625.6):

(a) Information is necessary to protect life or property from an imminent threat.

(b) The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

313.13.1 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.

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(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.

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).

313.14 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 Criminal Investigations 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

313.15 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.

A copy of the current policy of the juvenile court concerning authorized release of information and appropriate acknowledgment forms shall be kept with copies of this procedure in the Hayward

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Police Department Policy Manual. Such releases are authorized by Welfare and Institutions Code § 827.

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

313.16 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION

The Support Services Division Commandershall coordinate the procedures related to the custody of juveniles held at the Hayward Police Department and ensure any required certification is maintained (Welfare and Institution Code § 210.2).

313.17 ADMINISTRATIVE REVIEW

The Department will provide for the administrative review of temporary detention areas and procedures at least once every three years. This administrative review will be forwarded to the Chief of Police.

313.18 RELIGIOUS ACCOMMODATION

Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).

313.19 TRAINING

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

313.20 REVISIONS

Enacted: December 17, 2007

Revised: August 19, 2008

Revised: February 18, 2009

Revised: July 3, 2009

Revised: February 7, 2010

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Revised: March 16, 2011

Revised: April 9, 2013

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Temporary Custody of Juveniles

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Revised: November 10, 2019

Revised: January 22, 2021

Revised: February 12, 2021

Revised: October 12, 2021

Revised: March 9, 2023

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Drug Endangered Children

314.1 PURPOSE AND SCOPE

To ensure the safety and protection of drug endangered children by improving communication and coordination of activities between the Hayward Police Department and other county agencies and entities responsible for intervention and response.

To ensure that juveniles encountered in drug environments or homes where drugs are being used or manufactured are cared for appropriately by following the Alameda County Drug Endangered Children (DEC) Protocols.

314.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

314.2 POLICY

To ensure the safety and protection of drug endangered children by improving communication and coordination of activities between the Hayward Police Department and other county agencies and entities responsible for intervention and response.

To ensure that juveniles encountered in drug environments or homes where drugs are being used or manufactured are cared for appropriately by following the Alameda County Drug Endangered Children (DEC) Protocols.

314.3 PROCEDURE AND CATEGORIES

Children encountered during investigations or in drug environments shall be assessed and categorized as follows:

Level One - Children living in settings where clandestine drug manufacturing labs are present (indicated by the presence of a functioning lab, a "box lab," or the existence of precursor chemicals) and/or any child who shows signs or symptoms of ingestion or intoxication or is known to have ingested an illegal drug.

Level Two - Children living in settings involving the use, possession, selling or transportation of drugs, as long as the child shows no sign of ingestion or harm.

Level Three - Any child whose toxicology screen at birth is positive for a controlled substance.

314.4 ROLES AND RESPONSIBILITIES

314.4.1 LAW ENFORCEMENT RESPONSIBILITIES

(a) Investigating Hayward Police officers are responsible for the investigation of both the traditional drug case where drug endangered children are found, as well as any related violations involving the children, such as child endangerment, Penal Code § 273a (a) & (b), and children present at a drug manufacturing location, Health and Safety Code § 11379.7.

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(b) An investigation involving children meeting the criteria of any level will result in the inclusion of the DEC incident type in the report header of the associated police report.

(c) Investigating officers are responsible for all related evidence collection, including but not limited to statements, photos, measurements, collection of contraband, medical reports, etc.

(d) Investigating officers must notify the Department of Children and Family Services (DCFS) Emergency Response Unit (formerly CPS) via the Hotline (1-510-259-1800) as soon as is reasonably possible, so that the DCFS Emergency Response Unit may send a Child Welfare Worker (CWW) if staffing permits, and may assist Law Enforcement in coordination of medical screening, removal of any children from the home, transportation, etc.

(e) Once the determination has been made that the case falls under the DEC protocols, investigating officers should, prior to making the final determination, solicit input from the DCFS Emergency Response Unit on whether to take temporary custody of the child per Welfare and Institutions Code § 300.

1. In cases where a child is left unattended, or where both parents or guardians are being arrested, or where a parent or guardian cannot be located, law enforcement should notify the DCFS Emergency Response Unit and remove the child per Welfare and Institutions Code § 300.

2. In cases where both parents or guardians are present at the scene and one parent or guardian is being detained but another is not, law enforcement will, at a minimum, contact the DCFS Emergency Response Unit by phoning the Hotline and consult with them regarding prior the DCFS history and circumstances supporting the release of the child to the available parent or guardian, or to a non-custodial parent. Investigators shall run available criminal history and registration checks on the receiving parent or guardian prior to releasing the child.

(f) In cases of Level 3, current California law does not recognize an infant's positive toxicology screen alone at the time of delivery to be in and of itself sufficient basis for reporting child abuse or neglect. Additionally, the Alameda County District Attorney's Office will not charge Penal Code § 273a on the basis of a positive toxicology screen without additional evidence of abuse or neglect.

1. Penal Code § 11165.13 states, "a positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse or neglect. However, any indication of maternal substance abuse shall lead to an assessment of the needs of the mother and child pursuant to Health and Safety Code § 123605. If other factors are present that indicate risk to a child, then a report shall be made.to a county welfare or probation department, and not to a law enforcement agency."

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2. Health and Safety Code § 123605 mandates that this assessment of the needs of the mother and child be done by a health practitioner or medical social worker, before the infant is released from the hospital.

3. If other evidence of abuse or neglect is discovered, law enforcement shall document such evidence, and send the report to DCFS and the District Attorney's Office, as appropriate.

(g) The investigating officer should assure that, if appropriate, a medical assessment is completed.

1. In Level 1 cases, officers/investigators should call EMS to respond to the scene for an immediate medical assessment. The child should then be transported by ambulance to Children's Hospital, if possible. If EMS determines that more immediately medical care is necessary, the child should be transported via ambulance to the nearest Emergency Room.

2. In Level 2 cases, investigating officers should consult with the DCFS Emergency Response Unit to determine if a medical clearance is necessary, prior to transport to the Assessment Center. If so, efforts should be made to have the medical clearance completed at Children's Hospital in Oakland.

(h) Officers/investigators will coordinate with the DCFS Emergency Response Unit and, if available, the Hayward Youth and Family Services Bureau (YFSB) to transport the child to the Assessment Center. Law Enforcement should notify the Assessment Center intake that the children are being entered under the DEC protocol.

(i) In the event of pre-planned warrants where Law Enforcement has prior knowledge of the possible presence of children, Law Enforcement shall contact the DCFS Emergency Response Unit specifically requesting a contact person and providing sufficient information so that DCFS can plan for potential intake, and/or respond at the time of the warrant, staff permitting.

(j) Law enforcement investigators will coordinate with the DCFS Emergency Response Unit to have joint interviews done at CALICO, if appropriate.

(k) Upon completion of the investigation, officers/investigators will forward the case to the Alameda County Deputy District Attorney for appropriate charging.

(l) Reports designated as DEC cases will be forwarded to the DCFS Emergency Response Unit by the officer/investigator within 36 hours after starting the investigation (Penal Code § 11166.3 (a)).

(m) Reports designated as DEC cases will also be forwarded to the Special Victims Unit Sergeant, Narcotics Unit and the Crime Analyst.

(n) The Special Victims Unit Sergeant will be responsible for reviewing DEC cases to ensure that proper investigative steps have been taken, and that the reports are

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designated properly as Level I, Level II or Level III. He/she will then coordinate with the Crime Analyst so that statistics can be accurately entered.

314.4.2 CRIME ANALYST RESPONSIBILITIES
The Crime Analyst will consult with the Special Victims Unit Sergeant for compiling statistics on DEC cases investigated by the Hayward Police Department.

314.5 REVISIONS
Enacted: August 26, 2009

May 23, 2016

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Senior and Disability Victimization

315.1 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 Hayward Police Department members as required by law (Penal Code § 368.6).

The Hayward 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).

315.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 82.2.1, 82.2.4

315.1.2 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 his/her ability to carry out normal activities or to protect his/her rights, including but not limited to persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This 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

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(c) Homicide of an elder, dependent adult, or other adult or child with a disability

(d) Sex crimes against elders, dependent adults, or other adults and children with disabilities

(e) Child abuse of children with disabilities

(f) Violation of relevant protective orders

(g) Hate crimes against persons with actual or perceived disabilities, including but not limited to disabilities caused by advanced age, or those associated with them

(h) Domestic violence against elders, dependent adults, and adults and children with disabilities, including disabilities caused by advanced age

315.2 POLICY

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

315.2.1 ARREST POLICY

It is the [department/office] policy to make arrests or to seek arrest warrants for elder and dependent adult abuse in accordance with Penal Code § 836 and, in the case of domestic violence, as allowed by Penal Code § 13701 (Penal Code § 368.6) (see Law Enforcement Authority and Domestic Violence policies for additional guidance).

315.2.2 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 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)).

315.3 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.

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(b) Any relevant statements the victim may have made and to whom he/she made the statements.

(c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.

(e) Whether the victim was transported for medical treatment or a medical examination.

(f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.

(g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.

(h) Previous addresses of the victim and suspect.

(i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

(j) Witness and suspect statements if available.

(k) Review of all portable audio/video recorders, devices, and other available video.

(l) Call history related to the elder or dependent adult including calls from mandated reporters or other individuals.

(m) Whether the abuse is related to a disability-bias hate crime and related bias motivations (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).

(n) Results of investigations shall be provided to those agencies (Adult Protective Services (APS), long-term ombudsman) that referred or reported the elder or dependent adult abuse (Welfare and Institutions Code § 15640(f)).

(o) Whether a death involved the End of Life Option Act:

1. Whether or not assistance was provided to the person beyond that allowed by law (Health and Safety Code § 443.14).

2. Whether an individual knowingly altered or forged a request for an aid-in-dying drug to end a person's life without his/her authorization, or concealed or destroyed a withdrawal or rescission of a request for an aid-in-dying drug (Health and Safety Code § 443.17).

3. Whether coercion or undue influence was exerted on the person to request or ingest an aid-in-dying drug or to destroy a withdrawal or rescission of a request for such medication (Health and Safety Code § 443.17).

4. Whether an aid-in-dying drug was administered to a person without his/her knowledge or consent (Health and Safety Code § 443.17).

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential elder or dependent adult abuse and investigated similarly.

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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)).

315.3.1 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)).

315.4 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) Present all cases of alleged elder and dependent adult abuse to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies, and facility administrators as needed (Welfare and Institutions Code § 15650).

(e) Provide referrals to therapy services, victim advocates, guardians, and support for the victim and family as appropriate (see the Victim and Witness Assistance Policy for additional guidance).

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1. Ensure victims of sex crimes know their right to have a support person of their choice present at all times during an interview or contact (Penal Code § 368.6) (see the Sexual Assault Investigations Policy for additional guidance).
2. Referrals to the crime victim liaison as appropriate for victims requiring further assistance or information regarding benefits from crime victim resources.

(f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 15610.55).

(g) Make reasonable efforts to determine whether any person committed unlawful interference in a mandated report.

315.5 MANDATORY NOTIFICATION

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

Notification shall be made by telephone as soon as practicable and a written report shall be provided within two working days as provided in Welfare and Institutions Code § 15630(b)(c).

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 is physical abuse and 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 there is physical abuse and no serious bodily injury, notification shall be made by telephone and, within 24 hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
3. If the abuse is allegedly caused by a resident with dementia and there is no serious bodily injury, notification shall be made by telephone and a written report to the local ombudsman within 24 hours.
4. When a report of abuse is received by the [Department/Office], the local ombudsman shall be called to coordinate efforts to provide the most immediate and appropriate response (Welfare and Institutions Code § 15630(b)).

(b) If the abuse is in a long-term care facility (not a state mental health or a state developmental center) and is other than physical abuse, a telephone report and a written report shall be made to the local ombudsman as soon as practicable (Welfare and Institutions Code § 15630(b)).

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(c) The California Department of Public Health (DPH) shall be notified of all known or suspected abuse in a long-term care facility.

(d) 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.

(e) If the abuse occurred in an adult day health care center, DPH and the California Department of Aging shall be notified.

(f) 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.

(g) The District Attorney's office shall be notified of all cases of physical abuse and financial abuse in a long-term care facility.

(h) 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)).

(i) 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)).

(j) 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 Criminal Investigations 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)).

315.5.1 NOTIFICATION PROCEDURE

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

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(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.

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

315.6 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.

315.6.1 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)).

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315.6.2 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.

(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.

315.7 INTERVIEWS

315.7.1 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.

315.7.2 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.

315.7.3 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).

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315.8 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.

315.9 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.

315.9.1 SUPERVISOR RESPONSIBILITIES

The Criminal Investigations 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 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-deputy] notifies the [detectiveBureau] supervisor that he/she has responded to a drug lab or other narcotics crime scene where an adult abuse victim is present or where evidence indicates that an adult abuse victim lives.

315.9.2 OFFICER RESPONSIBILITIES

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

(a) Document the environmental, medical, social, and other conditions of the adult, using photography as appropriate and the checklist or form developed for this purpose.

(b) Notify the Criminal Investigations Bureau supervisor so an interagency response can begin.

315.9.3 SUPERVISOR RESPONSIBILITIES

The Criminal Investigations 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

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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 Criminal Investigations 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.

(c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social, and other conditions that may affect the adult.

315.10 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.

315.10.1 MANDATORY TRAINING

The Personnel and Training Administrator shall ensure that appropriate personnel receive the required training, including:

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

(b) Advanced training on senior and disability victimization available from POST, the United States Department of Justice, the Disability and Abuse Project of the Spectrum Institute, or other sources as provided by Penal Code § 368.6(c)(16)(A).

1. Training should include the following:

    (a) Information on the wide prevalence of elder and dependent adult abuse, sexual assault, other sex crimes, hate crimes, domestic violence, human trafficking, and homicide against adults and children with disabilities, including disabilities caused by advanced age, and including those crimes often committed by caretakers (Penal Code § 368.6(c)(1)).

    (b) Information on the history of elder and dependent adult abuse and crimes against individuals with disabilities (see the POST Senior and Disability Victimization Policy Guidelines).

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The Personnel and Training Administrator 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)).

315.11 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.

315.12 JURISDICTION

The Hayward 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.

315.13 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 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

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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 his or her 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.
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

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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.

(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.

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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.
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.

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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.

315.14 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.

    (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.

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(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.

315.15 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.

315.16 REVISIONS

Enacted: December 17, 2007

Revised: August 19, 2008

Revised: July 3, 2009

Revised: March 16, 2011

Revised: April 25, 2012

Revised: April 9, 2013

Revised: April 22, 2014

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Revised: May 23, 2016

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Senior and Disability Victimization

Revised:August 8, 2017

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Revised: February 11, 2019

Revised: December 18, 2022

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Discriminatory Harassment

316.1 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.

316.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 26.1.3, 31.2.3

316.2 POLICY

The Hayward 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.

316.3 DEFINITIONS

Definitions related to this policy include these sub-sections:

316.3.1 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,

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statements, or pictures. Such conduct is contrary to [department/office] policy and to a work environment that is free of discrimination.

316.3.2 SEXUAL HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a member because of that person's sex.

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct of a sexual nature when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position or compensation.

(b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.

(c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

316.3.3 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.

316.3.4 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.

316.4 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 Personnel and Training Administrator, or the City Manager.

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Discriminatory Harassment

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 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.

316.4.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of each supervisor and manager 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 his/her 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 Personnel and Training Administrator in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

316.4.2 SUPERVISOR'S ROLE

Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory, harassing or retaliatory. Supervisors and managers shall be aware of the following considerations:

(a) Behavior of supervisors and managers should represent the values of our Department and professional law enforcement standards.

(b) False or mistaken accusations of discrimination, harassment or retaliation can have negative effects on the careers of innocent members.

(c) Supervisors and managers must act promptly and responsibly in the resolution of such situations.

(d) Supervisors and managers shall make a timely determination regarding the substance of any allegation based upon all available facts.

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

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316.4.3 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 Personnel and Training Administrator, the City Manager, or the California Civil Rights Department for further information, direction, or clarification (Government Code § 12950).

316.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all complaints of discrimination or harassment shall be fully documented and promptly and thoroughly investigated. The participating or opposing member should be protected against retaliation, and the complaint and related investigation should be kept confidential to the extent possible.

316.5.1 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.

316.5.2 FORMAL INVESTIGATION
If the complaint cannot be satisfactorily resolved through the process described above, 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 any 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 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, Personnel and Training Administrator or the City Manager.

316.5.3 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

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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.

316.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented on forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

(a) Approved by the Chief of Police, the City Manager, or the Personnel and Training Administrator, depending on the ranks of the involved parties.

(b) Maintained in accordance with the [department/office]'s established records retention schedule.

316.6.1 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.

316.7 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 he/she has been advised of this policy, is aware of and understands its contents and agrees to abide by its provisions during his/her term with the Department.

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents and agree that they will continue to abide by its provisions.

316.7.1 STATE-REQUIRED TRAINING

The Personnel and Training Administrator 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 Personnel and Training Administrator should ensure that employees are provided the following

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website address to the training course: https://calcivilrights.ca.gov (Government Code § 12950; 2 CCR 11023).

316.7.2 TRAINING RECORDS
The Personnel and Training Administrator 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).

316.8 WORKING CONDITIONS
The Support Services Division Commander or the authorized designee should be responsible for reviewing facility design and working conditions for discriminatory practices. This person should collaborate with other City employees who are similarly tasked (2 CCR 11034).

316.9 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).

316.10 REVISIONS
Enacted: December 17, 2007

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Revised: June 25, 2020

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Revised: February 10, 2023

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Child Abuse

317.1 PURPOSE AND SCOPE

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

317.1.1 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).

317.1.2 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 82.1.1, 82.2.1

317.1.3 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).

317.2 POLICY

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

317.3 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.

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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).

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.

317.3.1 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.

317.4 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).

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317.5 INVESTIGATIONS AND REPORTING

Officers should refer to the Report Writing and Investigation Manual to ensure that all necessary investigative steps are taken.

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

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

(a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.

(b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.

(c) Any relevant statements the child may have made and to whom he/she made the statements.

(d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.

(f) Whether the child victim was transported for medical treatment or a medical examination.

(g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.

(h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.

(i) Previous addresses of the victim and suspect.

(j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

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

317.5.1 EXTRA JURISDICTIONAL REPORTS

If a report of known or suspected child abuse or neglect that is alleged to have occurred outside this jurisdiction is received, department members shall ensure that the caller is immediately transferred to the agency with proper jurisdiction for the investigation of the case. If the caller cannot be successfully transferred to the appropriate agency, a report shall be taken and immediately referred by telephone, fax or electronic transfer to the agency with proper jurisdiction (Penal Code 11165.9).

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317.5.2 EXTRA JURISDICTIONAL REPORTS
If a report of known or suspected child abuse or neglect that is alleged to have occurred outside this jurisdiction is received, Department members shall ensure that the caller is immediately transferred to the agency with proper jurisdiction for the investigation of the case. If the caller cannot be successfully transferred to the appropriate agency, a report shall be taken and immediately referred by telephone, fax or electronic transfer to the agency with proper jurisdiction (Penal Code § 11165.9).

317.6 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.

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2. There is no lawful custodian available to take custody of the child.
3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
4. The child is an abducted child.

(c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 (Detainment or concealment of child from legal custodian) or Penal Code § 278.5 (Deprivation of custody of a child or right to visitation) (Penal Code § 279.6).

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

317.6.1 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.

317.6.2 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.

317.6.3 NEWBORNS TESTING POSITIVE FOR ILLEGAL 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.

317.7 INTERVIEWS

317.7.1 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.

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317.7.2 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.

317.7.3 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).

317.8 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.

317.9 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.

317.9.1 SUPERVISOR RESPONSIBILITIES

The Criminal Investigations 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

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community specific procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.

(b) Activate any available interagency response when an officer notifies the Criminal Investigations 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.

317.9.2 OFFICER RESPONSIBILITIES

Officers responding to a drug lab or other narcotics crime scene where a child is present or where there is evidence that a child lives should:

(a) Document the environmental, medical, social and other conditions of the child using photography as appropriate and the checklist or form developed for this purpose.

(b) Notify the Criminal Investigations Bureau supervisor so an interagency response can begin.

317.10 STATE MANDATES AND OTHER RELEVANT LAWS

California requires or permits the following:

317.10.1 RELEASE OF REPORTS

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Release of Records and Information Policy (Penal Code § 841.5; Penal Code § 11167.5).

317.10.2 REQUESTS FOR REMOVAL FROM THE CHILD ABUSE CENTRAL INDEX (CACI)

Any person whose name has been forwarded to the California Department of Justice (DOJ) for placement in California's CACI, as a result of an investigation, may request that his/her name be removed from the CACI list. Requests shall not qualify for consideration if there is an active case, ongoing investigation or pending prosecution that precipitated the entry to CACI (Penal Code § 11169). All requests for removal shall be submitted in writing by the requesting person and promptly routed to the CACI hearing officer.

317.10.3 CACI HEARING OFFICER

AN Criminal Investigations 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.

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317.10.4 CACI HEARING PROCEDURES

The hearing is an informal process where the person requesting removal from the CACI list will be permitted to present relevant evidence (e.g., certified copy of an acquittal, factual finding of innocence) as to why his/her name should be removed. The person requesting the hearing may record the hearing at his/her own expense.

Formal rules of evidence will not apply and the hearing officer may consider, in addition to evidence submitted by the person requesting the hearing, any relevant information including, but not limited to, the following:

(a) Case reports including any supplemental reports.

(b) Statements by investigators.

(c) Statements from representatives of the District Attorney's Office.

(d) Statements by representatives of a child protective agency who may be familiar with the case.

After considering all information presented, the hearing officer shall make a determination as to whether the requesting party's name should be removed from the CACI list. Such determination shall be based on a finding that the allegations in the investigation are not substantiated (Penal Code § 11169).

If, after considering the evidence, the hearing officer finds that the allegations are not substantiated, he/she shall cause a request to be completed and forwarded to the DOJ that the person's name be removed from the CACI list. A copy of the hearing results and the request for removal will be attached to the case reports.

The findings of the hearing officer shall be considered final and binding.

317.10.5 CHILD DEATH REVIEW TEAM

This department should cooperate with any interagency child death review team investigation (Penal Code § 11174.32).

317.11 TRAINING

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

(a) Participating in multidisciplinary investigations, as appropriate.

(b) Conducting forensic interviews.

(c) Availability of therapy services for children and families.

(d) Availability of specialized forensic medical exams.

(e) Cultural competence (including interpretive services) related to child abuse investigations.

(f) Availability of victim advocate or guardian ad litem support.

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317.12 REVISIONS

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Missing Persons

318.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

318.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.2.5, 41.2.6, 82.2.1, 82.2.4

318.1.2 DEFINITIONS

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 his/her ordinary habits or behavior, and who may be in need of assistance (Penal Code § 14215).

Missing person networks - Databases or computer networks available to law enforcement and that are suitable for information related to missing persons investigations. These include the National Crime Information Center (NCIC), the California Law Enforcement Telecommunications System (CLETS), Missing Person System (MPS) and the Unidentified Persons System (UPS).

318.2 POLICY

The Hayward 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 Hayward 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).

318.3 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 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

318.4 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).

318.4.1 TRANSMITTING REPORTS TO OTHER JURISDICTIONS

When the Hayward Police Department takes a missing person report on a person who lives outside of this jurisdiction, the Records Bureau shall promptly notify and forward a copy of the report to the agencies having jurisdiction over the missing person's residence and where the missing person was last seen. If the missing person is under 16 or there is evidence that the person may be at risk, those reports must be forwarded to that jurisdiction within 24 hours (Penal Code § 14205(c)).

318.4.2 SCHOOL NOTIFICATION

The follow-up investigator assigned to a missing person investigation shall ensure that the missing person's school is notified within 10 days if the missing person is a juvenile. The notice shall be in writing and should also include a photograph (California Education Code § 49068.6).

The school shall "flag" a missing child's record and immediately notify law enforcement of an inquiry or request for the missing child's records.

318.4.3 MUPS/NCIC NOTIFICATION

When the missing person is At Risk, the handling officer shall direct Dispatch to enter the person into the California Department of Justice Missing/Unidentified Persons System (MUPS) within two hours (Penal Code § 14205(b)).

When a missing person is under the age of 21, the handling officer shall direct Dispatch personnel to enter the person into the California Department of Justice Missing/Unidentified Persons System (MUPS) within two hours after accepting the report (42 USC § 5779(a) and 42 USC § 5780(3)(C)).

Entering a subject into MUPS automatically notifies the Department of Justice (DOJ) and the National Crime Information Center (NCIC) and populates their databases accordingly.

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318.5 INITIAL INVESTIGATION

Officers or other members conducting the initial investigation of a missing person should take the following investigative actions, as applicable:

(a) Respond to a dispatched call for service as soon as practicable.

(b) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.

(c) Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).

(d) Broadcast a "Be on the Look-Out" (BOLO) bulletin if the person is under 21 years of age or there is evidence that the missing person is at risk. The BOLO should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 21 years of age or may be at risk (Penal Code § 14211).

(e) Ensure that entries are made into the appropriate missing person networks as follows:

1. Immediately, when the missing person is at risk.
2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report.

(f) Complete the appropriate report forms accurately and completely and initiate a search as applicable under the facts.

(g) Collect and/or review:

1. A photograph and a fingerprint card of the missing person, if available.
2. A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).
3. Any documents that may assist in the investigation, such as court orders regarding custody.
4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).

(h) When circumstances permit and if appropriate, attempt to determine the missing person’s location through his/her telecommunications carrier.

(i) Contact the appropriate agency if the report relates to a previously made missing person report and another agency is actively investigating that report. When this is not practical, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at-risk missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.

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318.5.1 AT RISK REQUIREMENTS

In all cases involving a person who is At Risk or a child under 16 years of age, the handling employee shall ensure that the following steps are taken:

- Notify the shift supervisor about the case as soon as practical.
- Broadcast a "Be on the Look-Out" (BOLO) bulletin The BOLO should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 16 or may be At Risk (Penal Code § 14205).
- Conduct a Coroner's check within 24 hours of the report being initiated (Penal Code § 14206(a)(2)).
- If missing for more than 14 days, the handling investigator shall immediately inform the family or next of kin that they are required to submit to the dentist, physician/surgeon, or medical facility the signed request for dental or skeletal X-rays or both and once obtained, that they immediately submit those items to the investigating agency pursuant to Penal Code § 14206(a)(1).

318.6 REPORT PROCEDURES AND ROUTING

If a person has not been found after 45 days, the handling investigator may confer with the appropriate coroner(s) or medical examiner(s) for comparison to unidentified deceased persons. After conferring with the appropriate coroner(s) or medical examiner(s) the assigned investigator may submit the report to DOJ with dental/skeletal X-rays, or both, and most recent photograph if the missing person is under 18 years of age.

The handling investigator should verify and update the required missing person databases in accordance with 42 USC § 5780(3)(a) within and no later than 60 days of the original entry of the missing person into the systems and within 45 days thereafter until the missing person is located. The handling investigator must also make reasonable efforts to locate the missing person and document these efforts accordingly in the case file. These reasonable efforts will include, if the missing person is under the age of 21, maintaining a close liaison with the National Center for Missing and Exploited Children.

The assigned investigator should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs). NamUs is a free online system that can be searched by medical examiners, coroners, law enforcement officials and the general public to help solve these cases.

318.6.1 SUPERVISOR RESPONSIBILITIES

The supervisor shall review and approve missing person reports upon receipt and ensure resources are deployed as appropriate. The reports should be promptly sent to Records Bureau.

The supervisor shall also ensure applicable notifications and public alerts are made and documented and that records have been entered into the appropriate missing person networks.

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The supervisor should also take reasonable steps to identify and address any jurisdictional issues to ensure cooperation between agencies.

318.6.2 RECORDS BUREAU RESPONSIBILITIES
The receiving member shall:

(a) As soon as reasonable under the circumstances, notify and forward a copy of the report to the law enforcement agency having jurisdiction over the missing person's residence in cases where the missing person is a resident of another jurisdiction (Penal Code § 14211).

(b) Notify and forward a copy of the report to the law enforcement agency in whose jurisdiction the missing person was last seen (Penal Code § 14211).

(c) Notify and forward a copy of the report to the law enforcement agency having jurisdiction over the missing person's intended or possible destination, if known.

(d) Forward a copy of the report to the Criminal Investigations Bureau.

(e) Coordinate 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).

318.7 CRIMINAL INVESTIGATIONS 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 regarding the notice as appropriate to stress the importance of including the notice in the child's student file, along with contact information if the school receives a call requesting the transfer of the missing child's files to another school.

(b) Should recontact the reporting person and/or other witnesses within 30 days of the initial report and within 30 days thereafter to determine if any additional information has become available via the reporting party.

(c) Should consider contacting other agencies involved in the case to determine if any additional information is available.

(d) Shall verify and update CLETS, NCIC, and any other applicable missing person networks within 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

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is under the age of 21 and shall promptly notify NCMEC when the person is missing from a foster care family home or childcare institution (34 USC § 41308).

(g) Should make appropriate inquiry with the Coroner.

(h) Should obtain and forward medical and dental records, photos, X-rays, and biological samples pursuant to Penal Code § 14212 and Penal Code § 14250.

(i) Shall attempt to obtain the most recent photograph for persons under 18 years of age if it has not previously been obtained and forward the photograph to California DOJ (Penal Code § 14210) and enter the photograph into applicable missing person networks (34 USC § 41308).

(j) Should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs).

(k) 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).

318.7.1 DNA SAMPLE COLLECTION

In any case in which a report is taken concerning a person missing under high-risk circumstances, the assigned investigator shall, within no more than 30 days, inform the parents or other appropriate relatives that they may give a voluntary sample for DNA testing or may collect a DNA sample from a personal item belonging to the missing person, if available (Penal Code § 14250(c)).

Such samples shall be collected in a manner prescribed by the Department of Justice, using a DOJ model kit.

After 30 days, the reporting officer or assigned investigator shall verify the status of the missing person. If still missing, the DNA sample and a copy of the original report and any supplemental reports shall be sent to the Department of Justice for testing and inclusion in the DNA database.

318.8 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 Administrator 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.

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318.8.1 UNIDENTIFIED PERSONS
Department members investigating a case of an unidentified person who is deceased or a living person who cannot assist in identifying him/herself should:

(a) Obtain a complete description of the person.

(b) Enter the unidentified person's description into the NCIC Unidentified Person File.

(c) Use available resources, such as those related to missing persons, to identify the person.

318.8.2 UNIDENTIFIED PERSONS
Department members investigating a case of an unidentified person who is deceased or a living person who cannot assist in identifying him/herself should:

(a) Obtain a complete description of the person.

(b) Enter the unidentified person's description into the NCIC Unidentified Person File.

(c) Use available resources, such as those related to missing persons, to identify the person.

318.9 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to any missing person call involving a child under 10 years old, to any call involving high-risk circumstances or suspected foul play to ensure resources are deployed appropriately.

Supervisors shall review and approve missing person reports upon receipt. Supervisors shall also ensure applicable notifications and public alerts are made and documented, and that records have been entered into the appropriate missing person networks.

Supervisors should also take reasonable steps to identify and address any jurisdictional issues to ensure cooperation between agencies.

318.10 TRAINING

Subject to available resources, the Personnel and Training Administrator should ensure that members of this department whose duties include missing person investigations and reports receive regular training that includes:

(a) The initial investigation:

1. Assessments and interviews
2. Use of current resources, such as Mobile Audio Video (MAV)
3. Confirming missing status and custody status of minors
4. Evaluating the need for a heightened response
5. Identifying the zone of safety based on chronological age and developmental stage

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(b) Briefing of department members at the scene.

(c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).

(d) Verifying the accuracy of all descriptive information.

(e) Initiating a neighborhood investigation.

(f) Investigating any relevant recent family dynamics.

(g) Addressing conflicting information.

(h) Key investigative and coordination steps.

(i) Managing a missing person case.

(j) Additional resources and specialized services.

(k) Update procedures for case information and descriptions.

(l) Preserving scenes.

(m) Internet and technology issues (e.g., Internet use, cell phone use).

(n) Media relations.

318.11 TRAINING

The Personnel and Training Manager should ensure that members of this Department whose duties include missing person investigations and reports receive regular training that includes:

(a) The initial investigation:

1. Assessments and interviews
2. Use of current resources, su.ch as Mobile Audio Video (MAV).
3. Confirming missing status and custody status of minors.
4. Evaluating the need for a heightened response.
5. Identifying the zone of safety based on chronological age and developmental stage.

(b) Briefing of Department members at the scene.

(c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).

(d) Verifying the accuracy of all descriptive information.

(e) Initiating a neighborhood investigation.

(f) Investigating any relevant recent family dynamics.

(g) Addressing conflicting information.

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(h) Key investigative and coordination steps.

(i) Managing a missing person case.

(j) Additional resources and specialized services.

(k) Update procedures for case information and descriptions.

(l) Preserving scenes.

(m) Internet and technology issues (e.g., Internet use, cell phone use).

(n) Media relations.

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Public Alerts

319.1 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.

319.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.2.4, 41.2.5, 41.2.6

319.2 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.

319.3 RESPONSIBILITIES

319.3.1 MEMBER RESPONSIBILITIES

Members of the Hayward Police Department should notify their supervisor, Watch Commander, or Criminal Investigations 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.

319.3.2 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 Public 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

319.4 AMBER ALERTS

The AMBER Alert™ Program is a voluntary partnership between law enforcement agencies, broadcasters, transportation agencies and the wireless industry, to activate urgent bulletins in child abduction cases.

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319.4.1 CRITERIA FOR AMBER ALERT

The following conditions must be met before activating an AMBER Alert (Government Code § 8594(a)):

(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.

319.4.2 UPDATES/CANCELLATIONS

The individual responsible for making the above notifications should periodically evaluate the need for updates and initiate cancellations as soon as possible. Any updates or cancellations of an AMBER Alert or Blue Alert should be sent to all affected agencies on a timely basis. Cancellations shall be issued immediately upon locating the abducted child or suspect, as appropriate.

319.4.3 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 Public 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.

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(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)

319.5 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.

319.5.1 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.

319.5.2 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 Public Information Officer or other authorized individual to handle media liaison

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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

319.6 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).

319.6.1 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.

319.6.2 CRITERIA FOR SILVER ALERTS

All of the following conditions must be met before activating a Silver Alert (Government Code § 8594.10):

(a) The missing person is 65 years of age or older.

(b) The Department has utilized all available local resources.

(c) The investigating officer or supervisor has determined that the person is missing under unexplained or suspicious circumstances.

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(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.

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

319.6.4 PROCEDURE FOR SILVER ALERT
Requests for a Silver Alert shall be made through the California Highway Patrol.

319.7 MUTUAL AID
The experiences of other law enforcement jurisdictions that have implemented similar plans indicate an AMBER Alert or Blue Alert will generate a high volume of telephone calls to the handling agency.

The Alameda County Sheriff's Department Emergency Communications Bureau facilities and staff can be made available in the event of a high call volume.

If the Watch Commander or Investigation Division Supervisor elects to use the services of the Alameda County Sheriff's Department, the following will apply:

(a) Notify the Alameda County Sheriff's Department Other of the incident and the request for assistance. He/she will provide you with a telephone number for the public to call.

(b) In the press release, direct the public to the telephone number provided by the Alameda County Sheriff's Department Other.

(c) The Public Information Officer will continue to handle all press releases and media inquiries. Any press inquiries received by the Alameda County Sheriff's Department will be referred back to this Department.

The Hayward Police Department shall assign a minimum of two detectives/officers to respond to the Alameda County Sheriff's Department Emergency Communications Bureau to screen and relay information and any clues received from incoming calls. As circumstances dictate, more staff resources from the handling law enforcement agency may be necessary to assist the staff at the Emergency Communications Bureau.

319.8 MUTUAL AID
The experiences of other law enforcement jurisdictions that have implemented similar plans indicate a public alert will generate a high volume of telephone calls to the handling agency.

The Sheriff's Department emergency communications facilities and staff can be made available in the event of a high call volume.

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If the Watch Commander or Criminal Investigations Bureau Supervisor elects to use the services of the Sheriff's Department, the following will apply:

(a) Notify the Sheriff's Department Watch Commander of the incident and the request for assistance. The Watch Commander will provide a telephone number for the public to call.

(b) In the press release, direct the public to the telephone number provided by the Sheriff's Department Watch Commander.

(c) The Public Information Officer will continue to handle all press releases and media inquiries. Any press inquiries received by the Sheriff's Department will be referred back to this [department/office].

The Hayward Police Department shall assign a minimum of two detectives/officers to respond to the Sheriff's Department emergency communications facility to screen and relay information and any clues received from incoming calls. As circumstances dictate, more staff resources from the handling law enforcement agency may be necessary to assist the staff at the emergency communications facility.

319.9 RESPONDING TO AMBER, BLUE OR SILVER ALERT FROM OUTSIDE AGENCY

The Hayward Police Department will receive official notification of an AMBER, BLUE or SILVER ALERT via a teletype with the heading "EDIS FLASH CHILD ABDUCTION, BLUE or SILVER ALERT". It shall be the responsibility of the Senior Jailer on duty to immediately deliver the teletype to the Watch Commander and/or Senior Communications Operator on duty. The Senior Jailer shall handle the teletype similarly to a Want Confirmation Request. Jail staff shall also, as soon as possible, distribute copies of the teletype as follows:

(a) Watch Commander.

(b) Senior Communications Operator.

(c) Investigations Division Commander.

(d) Criminal Investigations Bureau Lieutenant/PIO.

(e) Patrol Division Commander.

(f) Support Services Manager.

(g) SRO Sergeant, when staffed.

(h) Jail Administrator.

(i) Line-up box.

Upon receiving the CHILD ABDUCTION or BLUE ALERT, the Senior Communications Operator on-duty will ensure the following:

(a) Initiate a CAD incident entitled AMBER or BLUE Alert, including pertinent information from the teletype. AMBER, BLUE or SILVER will have a pre-designated priority of 2P.

(b) Broadcast pertinent information over the air.

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(c) Route the call to all terminals via an ALLT message. This will get the information to fire stations, MDT's, and all police station computers.

As dictated by the content of the AMBER, BLUE or SILVER Alert, including location, time element, and direction of flight, patrol officers may be assigned to SNARE posts. Officers who are not assigned to calls for service should be especially attentive to locating the abducted child or suspect as appropriate.

319.10 RESOURCES

(a) California Highway Patrol:

1. Emergency Notification and Tactical Alert Center (ENTAC): (916) 843-4199.
2. Email: missing.persons@doj.ca.gov.

(b) Governor's Office of Emergency Services:

1. OES 24 Hour Warning Center: (800) 421-2921 or (916) 845-8911.
2. EDIS Program: (916) 845-8610.

(c) Office of the Attorney General California Department of Justice:

1. 24-hour Command Center: (916) 227-3244.
2. Violent Crime Information Center: (916) 227-3280.
3. Missing and Unidentified Persons Unit: (916) 227-3290 (24 hour).
   (a) Email: www.ag.ca.gov/missing.
   (b) 24-hour Missing Children Hotline: (800) 222-FIND(3463).
4. Investigative Services Program: (916) 227-4736.
5. Sex Offender Tracking Program: (916) 227-3288.
6. Office of Victim's Services: (877) 433-9069 (Toll Free).
7. Crime and Violence Prevention Center: (916) 3247863.
   (a) www.ag.ca.gov/cvpc

(d) Federal Bureau of Investigation:

(a) Los Angeles: (310) 477-6565
(b) Sacramento: (916) 481-9110
(c) San Diego: (619) 514-5500
(d) San Francisco: (415) 553-2000

(e) National Center for Missing and Exploited Children:

(a) www.missingkids.com (800) THE-LOST (843-5678)

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(f) Critical Reach: www.criticalreach.org (800) 724-8725

319.11 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).

319.11.1 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.

319.11.2 PROCEDURE

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

319.12 YELLOW ALERT

A Yellow Alert may be issued when a person is killed due to a hit-and-run incident and the [department/office] has specified information concerning the suspect or the suspect's vehicle (Government Code § 8594.15).

319.12.1 CRITERIA FOR YELLOW ALERT

All of the following conditions must be met before activating a Yellow Alert (Government Code § 8594.15):

(a) A person has been killed due to a hit-and-run incident.

(b) There is an indication that a suspect has fled the scene utilizing the state highway system or is likely to be observed by the public on the state highway system.

(c) The [department/office] has additional information concerning the suspect or the suspect's vehicle including but not limited to the following:

1. The complete license plate number of the suspect's vehicle.
2. A partial license plate number and additional unique identifying characteristics, such as the make, model, and color of the suspect's vehicle, which could reasonably lead to the apprehension of a suspect.
3. The identity of a suspect.
4. Public dissemination of available information could either help avert further harm or accelerate apprehension of a suspect based on any factor, including but not limited to the time elapsed between a hit-and-run incident and the request or

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the likelihood that an activation would reasonably lead to the apprehension of a suspect.

319.12.2 PROCEDURE FOR YELLOW ALERT
Requests for a Yellow Alert shall be made through the California Highway Patrol (Government Code § 8594.15).

319.13 FEATHER ALERT
A Feather Alert may be issued when an indigenous person is reported missing under unexplained or suspicious circumstances (Government Code § 8594.13).

319.13.1 CRITERIA FOR FEATHER ALERT
All of the following conditions must be met before activating a Feather Alert (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 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.

(e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

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

319.14 REVISIONS
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Public Alerts

Revised: May 23, 2016

Revised: June 3, 2019

Revised: June 7, 2020

Revised: February 8, 2021

Revised: February 10, 2023

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Law Enforcement Mutual Aid Plan

320.1 PURPOSE AND SCOPE

The purpose and scope of this section is to provide a brief overview of the Law Enforcement Mutual Aid Plan and direct personnel toward additional information regarding the plan. The State of California, Law Enforcement Mutual Aid Plan is issued and revised under the authority of Government Code § 8550, Government Code § 8569, Government Code § 8615 to 8619, Government Code § 8668, the California Emergency Plan and the Master Mutual Aid Agreement.

320.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 2.1.3, 2.1.4

320.2 DEFINITIONS

Operational Area: A county, along with all the political subdivisions within that county constitutes an Operational Area.

Operational Area Law Enforcement Coordinator: The county Sheriff is the Operational Area law enforcement coordinator, with the exception of the City and County of San Francisco, where the Chief of Police is the Operational Area Law Enforcement Coordinator.

Mutual Aid Region: A Mutual Aid Region is a geographic area comprised of multiple operational areas a Mutual Aid Region manages and coordinates information and resources among operational areas within the mutual aid region and between the Operational Areas and the state level.

Regional Law Enforcement Mutual Aid Coordinator: A Regional Law Enforcement Mutual Aid Coordinator is an Operational Area Law Enforcement Coordinator, who is elected by other Operational Area Coordinators within the mutual aid Region, to coordinate the collective law enforcement mutual aid response of agencies within the Region.

State Law Enforcement Mutual Aid Coordinator: The State Law Enforcement Mutual Aid Coordinator is the Chief of the Law Enforcement Branch of the Governor's Office of Emergency Services. The State Coordinator is responsible for mutual aid response coordination and administrative interaction between state and local law enforcement agencies during emergency and non-emergency situations, where the mutual aid system is, or could be, involved.

320.3 LOCAL REQUEST FOR MUTUAL AID

When it is determined that an unusual occurrence may become or is already beyond the control of the Hayward Police Department and its resources, it is the responsibility of the Chief or his or her designee to request mutual aid from the Operational Area Law Enforcement Mutual Aid Coordinator (Alameda County Sheriff).

A declaration of local emergency may or may not be appropriate for the circumstances; however the Chief of Police may request mutual aid prior to the activation of an EOC or formal declaration

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of local emergency. Mutual aid request and response is not dependent on a declaration of local emergency.

320.3.1 LOCAL EMERGENCY

Local Emergency: Means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, complications resulting from the Year 2000 Problem, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission. (Government Code § 8558(c))

In periods of local emergency, political subdivisions (cities or counties) have the power to provide mutual aid to any affected area in accordance with local ordinances, resolutions, plans, or agreements. (It could be argued that having signed the Master Mutual Aid Agreement, the entity is bound to provide resources, if requested in accordance with the Mutual Aid Plan.)

During a local emergency, state agencies may provide mutual aid, including personnel, equipment, and other available resources, to assist local jurisdictions in accordance with mutual aid plans or at the direction of the Governor.

By proclaiming a local emergency, the governing body of a city or county expands its regulatory enforcement, subject to constitutional constraints, increases its police power and may promulgate temporary emergency orders and regulations necessary to provide for the protection of life and property.

Response costs are absorbed by the responding agency notwithstanding any other agreements to the contrary or disaster reimbursement funds that may become available.

To reiterate, a Declaration of Local Emergency is not required before requesting law enforcement mutual aid.

320.4 OPERATIONAL AREA MUTUAL AID

When an emergency develops or appears to be developing which cannot be resolved by a law enforcement agency within an Operational Area, it is the responsibility of the Operational Area Mutual Aid Coordinator to provide assistance and coordination to control the problem. (Government Code § 26602)

In response to a request for law enforcement mutual aid by a Chief of Police within the Operational Area, the Alameda County Sheriff will implement procedures to activate the mutual aid. The Sheriff will coordinate the Operational Area response of law enforcement resources including the response of law enforcement resources of unaffected operational area municipalities, the local

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CHP, and other law enforcement agencies within the Operational Area, as well as his/her own resources, to assist the affected local Chief of Police in the manner requested. If it appears likely that the resources of an Operational Area will become depleted, the Regional Coordinator should be advised in advance.

320.5 REGIONAL MUTUAL AID

Should an existing or anticipated emergency be of such magnitude as to require the commitment of the resources of one or more Operational Areas, it is the responsibility of the Regional Law Enforcement Mutual Aid Coordinator to organize the notification and response of resources within that region.

The Regional Coordinator will keep the State Law Enforcement Mutual Aid Coordinator, who is the Chief of the Law Enforcement Branch, Governor's Office of Emergency Services, advised of the situation status. The State Law Enforcement Mutual Aid Coordinator may support the regional response by issuing Mission Numbers (similar to a case number) and tasking state agencies within the region. An unusual occurrence necessitating regional law enforcement mutual aid may or may not result in a proclamation of a state of emergency.

320.6 STATE AND FEDERAL MUTUAL AID PROCEDURES

National Guard Assistance:

A local emergency must be declared by proclamation before National Guard assistance can be sought. The proclamation and request will be forwarded to the Governor's office utilizing SEMS for his/her review. The Governor will then approve the request and commit the National Guard, who coordinates with the requesting agency head for deployment and mission. The National Guard is under their own command and will work in conjunction with the requesting agency.

Federal Law Enforcement Assistance:

When the state has committed all of its available forces, including the State Military Department, and when such forces are unable to control the emergency, only state government may make a request to the President to provide federal forces to assist in restoring or maintaining law and order. Only after the President has agreed to provide such forces and his/her proclamation has been published, will federal forces be provided and deployed.

320.7 MORE INFORMATION

This policy is a brief overview of the California Law Enforcement Mutual Aid Plan. Additional copies of the California Law Enforcement Mutual Aid Plan may be obtained through the California Office of Emergency Services or their website at **www.oes.ca.gov**.

320.8 REVISIONS

Enacted: August 12, 2009

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Revised: May 23, 2016

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Victim and Witness Assistance

321.1 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.

321.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 55.1.1, 55.1.2, 55.1.3, 55.2.1, 55.2.3, 55.2.4, 55.2.5

321.1.2 SUMMARY OF CRIME VICTIM/WITNESS RIGHTS

This is an overview of constitutional and statutory rights provided to victims/witnesses:

(a) **Right to Keep Address Confidential** - In cases of child abuse, spousal abuse and sex crimes, victims/witnesses have a right to have their addresses kept confidential. Their addresses may be given only to the attorney for the defendant, but will not appear on any forms or public documents.

(b) **Right Not to be Threatened or Intimidated** - If anyone threatens a victim or witness, law enforcement has the responsibility to investigate such threat or intimidation. It is a crime for anyone to attempt to dissuade or prevent a victim or witness from assisting law enforcement agencies or prosecutors or from attending or giving testimony at any trial or proceeding authorized by law. It is a felony if any such efforts involve coercion, threats or force, or are done for financial gain.

(c) **Right to be Present at Sentencing and Parole Hearings** - Crime victims/witnesses are entitled to appear at the sentencing hearing and to speak on matters concerning the crime, the penalty and the need for restitution.

(d) **Right to be Informed of the Sentence Recommended by the Probation Officer** - Victims/witnesses have a right to make a statement at parole hearings.

(e) **Right to Restitution and Return of Property** - Victims/witnesses have a right to restitution from the person who is convicted of a misdemeanor or felony where the victim/witness suffered economic loss a result of the offender's conduct, as well as the return of their property when no longer needed as evidence in a court proceeding.

321.2 POLICY

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

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321.2.1 VICTIM/WITNESS INDEMNIFICATION

Law Enforcement agencies are charged with the responsibility of notifying victims/witnesses of violent crimes of their right to indemnification. For the purpose of indemnification by the State of California, the definition of victim shall include (Government Code § 13950 et seq.):

(a) A person who sustains injury or death as a direct result of a crime.

(b) A person legally dependent for support upon a person who sustains injury or death as a direct result of a crime.

(c) A family member or any person in close relationship to a victim who was present during the commission of the crime and whose treatment or presence during treatment of the victim is required for successful medical treatment.

(d) Any individual who legally assumes the obligation or who voluntarily pays the medical or burial expenses incurred as a direct result of a death caused by a crime.

321.2.2 THREATS AND/OR INTIMIDATION OF VICTIMS/WITNESSES

(a) It shall be the policy of the Hayward Police Department to provide appropriate assistance to victims/witnesses within our jurisdiction who have been threatened or who express specific, credible reasons for fearing intimidation or further victimization.

(b) Appropriate assistance may include referral to the Alameda County District Attorney's Office for consideration of protective custody, referral for safety planning by a victim advocate, and/or offering words of support.

(c) If an employee of the Hayward Police Department becomes aware of danger to a victim or witness, that employee shall promptly notify a supervisor so that appropriate notifications can be made to the victim/witness and the appropriate law enforcement agency.

(d) When notifying another agency of possible danger to a victim/witness within their jurisdiction, the notifying Hayward Police employee shall inform the agency of the danger and request that the agency take reasonable precautions.

321.3 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 Hayward 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.

321.3.1 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

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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 Hayward Police Department jurisdiction (Penal Code § 680.2).

(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.

321.4 CRIME VICTIMS

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

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

Property taken as evidence from a crime victim shall be promptly returned, except for contraband, disputed property, and weapons used in the course of the crime, where permitted by law or rules of evidence if feasible.

321.4.1 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).

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321.5 VICTIM INFORMATION

The Criminal Investigations Division 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 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.

(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).

321.6 REVIEW OF VICTIM WITNESS SERVICES

Every three (3) years, the Investigation Division Commander or his/her designee shall review the Department's victim/witness assistance program and contracted services, to ensure consistency and compliance with applicable laws. The results of the review and any recommended program modifications shall be forwarded to the Chief of Police.

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321.7 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.

321.8 NOTIFICATIONS AND RELATIONSHIPS

The Hayward Police Department will make every effort to inform the public and media about the agency's victim/witness assistance services. The Department will also maintain a strong relationship with other agencies and organizations versed with victim/witness assistance.

321.9 REVISIONS

Enacted: December 17, 2007

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Revised: February 7, 2010

Revised: March 16, 2011

Revised: April 25, 2012

Revised: April 9, 2013

Revised: May 23, 2016

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Revised: September 17, 2018

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Revised: February 10, 2023

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Next-of-Kin Notification

322.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for notifying next-of-kin in cases of death, serious injury or serious illness.

322.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.2.4, 41.2.4, 55.2.6, 81.2.11

322.2 NOTIFICATIONS GENERALLY

Department members may deliver emergency messages or make death or injury/illness notifications with the approval of a supervisor when other reasonable efforts from other agencies or persons have been exhausted. In all notifications these guidelines should be followed:

(a) Obtain as much information from the requesting party as may be necessary to answer questions that may be asked by the person being notified.

(b) Obtain the name and telephone number of the person that the party being notified should contact for additional information.

(c) In appropriate situations, officers should offer the services of the Youth and Family Services Bureau Counseling staff.

(d) Attempt to contact a third party who may act as a support to the person being notified.

(e) Answer only those questions that can be answered with facts.

(f) The notification shall be made in person if possible.

322.2.1 INJURY AND ILLNESS NOTIFICATION

Normally, a representative of the hospital administering aid to the injured or ill person should make notification of the next-of-kin in situations involving hospitalized persons. However, notification requests from a hospital will be honored when all other practical means have failed.

322.3 LINE OF DUTY DEATH OR SERIOUS INJURY

Next-of-kin or serious injury notification in the case of a Hayward Member shall be facilitated through the affected members Division Commander or Support Services Manager as appropriate.

The Hayward Police Department Critical Incident Stress Management Program Policy describes the full procedures to be rendered to agency personnel and their families following line-of-duty deaths or serious injuries.

322.4 REVISIONS

Enacted: July 8, 2009

Revised: August 13, 2010

Revised: May 23, 2016

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Hate Crimes

323.1 PURPOSE AND SCOPE

This policy is designed to assist in identifying and handling crimes motivated by hate or other bias toward individuals and groups with legally defined protected characteristics, to define appropriate steps for assisting victims, and to provide a guide to conducting related investigations. It outlines the general policy framework for prevention, response, accessing assistance, victim assistance and follow-up, and reporting as related to law enforcement's role in handling hate crimes. It also serves as a declaration that hate crimes are taken seriously and demonstrates how the Hayward 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).

323.1.1 DEFINITION AND LAWS

In accordance with Penal Code § 422.55; Penal Code § 422.56; Penal Code § 422.6; and Penal Code § 422.87, for purposes of all other state law, unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

Bias motivation - Bias motivation is a pre-existing negative attitude toward actual or perceived characteristics referenced in Penal Code § 422.55. Depending on the circumstances of each case, bias motivation may include but is not limited to hatred, animosity, discriminatory selection of victims, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including but not limited to disability or gender.

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

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

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

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motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

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

Gender expression -Gender expression means a person's gender-related appearance and behavior, regardless of whether it is stereotypically associated with the person's assigned sex at birth.

Gender identity - Gender identity means each person's internal understanding of their gender, or the perception of a person's gender identity, which may include male, female, a combination of male and female, neither male nor female, a gender different from the person's sex assigned at birth, or transgender (2 CCR § 11030).

Hate crime - “Hate crime” includes but is not limited to a violation of Penal Code § 422.6, and means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

(a) Disability

(b) Gender

(c) Nationality

(d) Race or ethnicity

(e) Religion

(f) Sexual orientation

(g) Association with a person or group with one or more of these actual or perceived characteristics:

1. “Association with a person or group with one or more of these actual or perceived characteristics" includes advocacy for, identification with, or being on the premises owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of the characteristics listed in the definition of “hate crime” under paragraphs 1 to 6, inclusive, of Penal Code § 422.55(a).

Note: A “hate crime” need not be motivated by hate but may be motivated by any bias against a protected characteristic.

Hate incident - A hate incident is an action or behavior motivated by hate or bias but legally protected by the First Amendment right to freedom of expression. Examples of hate incidents include:

- Name-calling
- Insults and epithets
- Distributing hate material in public places

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- Displaying hate material on your own property

Hate speech - The First Amendment to the U.S. Constitution protects most speech, even when it is disagreeable, offensive, or hurtful. The following types of speech are generally not protected:

- Fighting words
- True threats
- Perjury
- Blackmail
- Incitement to lawless action
- Conspiracy
- Solicitation to commit any crime

In whole or in part - “In whole or in part because of” means that the bias motivation must be a cause in fact of the offense whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that a crime would not have been committed but for the actual or perceived characteristic.

Nationality - Nationality means country of origin, immigration status, including citizenship, and national origin.

Race or ethnicity - Race or ethnicity includes ancestry, color, and ethnic background.

Religion - Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

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

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- Private institution
- Public agency
- Library
- Other victim or intended victim of the offense

323.2 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.

323.3 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.

323.3.1 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.

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(b) Finding, evaluating, and monitoring public social media sources to identify possible suspects in reported hate crimes; to identify suspects or suspect groups in future hate crimes or hate incidents affecting individuals, groups, or communities that may be victimized; and to predict future hate-based events.

(c) Providing direct and referral assistance to the victim and the victim's family.

(d) Conducting public meetings on hate crime threats and violence in general.

(e) Establishing relationships with formal community-based organizations and leaders.

(f) Expanding, where appropriate, preventive programs such as hate, bias, and crime-reduction seminars for students.

(g) Reviewing the Attorney General's latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab/Middle Eastern and Muslim communities (Penal Code § 13519.6(b)(8)).

(h) Providing orientation of and with communities of specific targeted victims such as immigrants, Muslims, Arabs, LGBTQ, black or African-American, Jewish, Sikh, and persons with disabilities.

(i) Coordinating with the Personnel and Training Administrator to 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 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 agency Terrorism Liaison Officer, the assigned designee, or other appropriate resource; and verifying that such data is transmitted to the Joint Regional Information Exchange System in accordance with the protocols of the Records Bureau Policy.

(m) Maintaining the [department/office]'s supply of up-to-date hate crimes brochures (Penal Code § 422.92; Penal Code § 422.87).

(n) Annually assessing this policy, including:

1. Keeping abreast of the Commission on Peace Officer Standards and Training (POST) model policy framework for hate crimes for revisions or additions, including definitions, responsibilities, training resources, and planning and prevention methods.

2. Analysis of the [department/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.

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323.3.2 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.

323.4 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

323.4.1 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.

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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.
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).

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(n) Document any suspected multi-mission extremist crimes.

323.4.2 INVESTIGATION

Investigators at the scene of, or performing follow-up investigation on, a suspected hate or bias crime or hate incident should take all actions deemed reasonably necessary, including but not limited to the following:

(a) Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).

(b) Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.

(c) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).

(d) Properly investigate any report of a hate crime committed under the color of authority per Penal Code § 422.6 and Penal Code § 13519.6.

(e) Document physical evidence or indicators of hate crimes, in accordance with the provisions of the Property and Evidence Policy, such as:

1. Hate literature.
2. Spray paint cans.
3. Threatening letters.
4. Symbols used by hate groups.
5. Desecration of religious symbols, objects, or buildings.

(f) Request the assistance of translators or interpreters when needed to establish effective communication.

(g) Conduct a preliminary investigation and record information regarding:

1. Identity of suspected perpetrators.
2. Identity of witnesses, including those no longer at the scene.
3. Offer of victim confidentiality per Government Code § 7923.615.
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.

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(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.

323.4.3 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.
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).

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(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.

323.5 TRAINING

All members of this [department/office] will receive POST-approved training on hate crime recognition and investigation as provided by 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.

323.6 APPENDIX

See attachments:

Statutes and Legal Requirements.pdf

Hate Crime Checklist.pdf

323.7 REVISIONS

Enacted: December 17, 2007

Revised: July 3, 2009

Revised: February 7, 2010

Revised: April 25, 2012

Revised:August 3, 2015

Revised: May 23, 2016

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Hate Crimes

Revised:March 3, 2017

Revised: June 7, 2020

Revised: June 25, 2020

Revised: December 10, 2021

Revised: February 10. 2023

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Standards of Conduct

324.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Hayward 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.

324.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.1.2, 1.2.9, 26.1.1, 26.1.4, 26.1.5, 26.1.6, 26.1.7, 52.1.3, 52.1.5

324.1.2 LAW ENFORCEMENT CODE OF ETHICS

The Hayward Police Department requires all personnel to abide by the Law Enforcement Code of Ethics and mandates that ethics training be conducted for all personnel biennially.

324.2 DISCIPLINE POLICY

The continued employment of every employee of this Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure of any employee to meet the guidelines set forth in this policy, whether on-duty or off-duty, may be cause for disciplinary action.

An employee's off-duty conduct shall be governed by this policy to the extent that it is related to act(s) that may materially affect or arise from the employee's ability to perform official duties or to the extent that it may be indicative of unfitness for his/her position.

324.2.1 RESPONSIBILITY OF THE INTERNAL AFFAIRS UNIT

The Internal Affairs Unit is responsible for maintaining all confidential files pertaining to citizen complaints and administrative investigations. Annually, the Internal Affairs Unit will complete a report outlining the number of citizen complaints and administrative investigations to the Chief of Police, which will be made available to the public. This report will be statistical in nature and will not include any confidential information.

324.3 CONDUCT WHICH MAY RESULT IN DISCIPLINE

The following list of causes for disciplinary action constitutes a portion of the disciplinary standards of this Department. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient Department service.

324.3.1 ATTENDANCE

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

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

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

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

324.3.2 CONDUCT

(a) Unauthorized or unlawful fighting, threatening, or attempting to inflict unlawful bodily injury on another.

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

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

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

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

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

(g) Failure of any employee to immediately report, to the on-duty Watch Commander or his/her Division Commander, activities that have resulted in official contact by any other law enforcement agency where the employee has been arrested, including a release on a notice to appear for a misdemeanor violation of any statute, or when he/she should be reasonably aware that he/she is the subject of a criminal investigation for other than an infraction.

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

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

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

(k) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this Department.

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

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

324.3.3 DISCRIMINATION

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

324.3.4 INTOXICANTS

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

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

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

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

324.3.5 PERFORMANCE

(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 reasonable and bona fide excuse.

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

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(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.

(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. 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 the omission or misrepresentation of material information in any police report, statement, application, departmental memorandum, or other official document, where the failure to disclose, omission or misrepresentation is not an intentional act that could be perceived as falsification or dishonesty.

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

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

(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; 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.

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

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(ac) 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.

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

(ae) Police Honesty: An officer found to have lied intentionally in any official document such as, but not limited to, a police report, statement, or affidavit or in an official proceeding such as, but not limited to, an internal affairs interview, hearing, administrative appeal, or in court shall be terminated as a matter of Department policy, as such an officer can no longer give testimony in a court of law without being subject to impeachment due to his/her honesty or veracity (or their opposites) and that such officer can no longer meet the Department's standard for credibility as a witness in a court of law.

(af) Employee Honesty: While the Department recognizes the differences between its sworn and professional staff employees, the duties and responsibilities of professional staff employees in support of the Department and its mission to safeguard lives and property require professional staff employees to be held to the same high standards regarding honesty and veracity as apply to the Department's sworn members. Therefore, as a matter of Department policy, any professional staff member found to have lied in any official proceeding such as, but not limited to, an internal affairs interview, administrative hearing, or court proceeding, shall be terminated.

324.3.6 SAFETY

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

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

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

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

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

(f) Violating departmental safety standards or safe working practices.

324.3.7 SECURITY

(a) Unauthorized, intentional release of designated confidential information, materials, data, forms or reports.

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(b) Employees who obtain, or attempt to obtain, information from the Department files, California Law Enforcement Telecommunication System (CLETS) information, including DMV records, for personal use or reasons other than to which they are entitled in accordance with their official duties. Any employee who unlawfully accesses or divulges Criminal Offender Record Information (CORI) as defined in the Criminal Offender Record Information (CORI) Policy may be subject to penalties as described therein.

324.3.8 SUPERVISION RESPONSIBILITY

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

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

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

324.3.9 COUNSELING

If counseling is determined appropriate for the remediation of unwanted conduct, the direct supervisor of the affected employee may have the responsibility of ensuring the appropriate counseling occurs. Document the unwanted conduct on a memorandum addressing the appropriate chain of command to include:

(a) The policy and performance dimension associated with the unwanted conduct

(b) The situation surrounding the unwanted conduct

(c) The impact the employee's actions had on themselves, their coworkers, the organization and/or the community

(d) Steps to prevent future unwanted conduct

Upon documenting the unwanted conduct, counsel the employee regarding the content of the memorandum. Document the date and time of the counseling on the memorandum. Make referral to EAP as appropriate.

324.3.10 LEVELS OF DISCIPLINE

The purpose of disciplinary action is to correct deficiencies in employee performance, to seek improvement to meet appropriate standards, and/or to correct for violations of policy, law or other regulations.

324.4 INVESTIGATION OF DISCIPLINARY ALLEGATIONS

Regardless of the source of an allegation of misconduct, all such matters will be investigated in accordance with Personnel Complaint Procedure. Pursuant to Government Code § 3304(d)

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and Government Code § 3508.1, the investigation should be completed within one year of the discovery of the allegation unless such investigation falls within one of the exceptions delineated within those provisions.

A pre-disciplinary hearing officer, personnel board, adjustment board, arbitrator, or other reviewing authority shall consider the timeliness of the filing and processing of a complaint or allegation of misconduct when arriving at a decision as to the level of discipline to be imposed. Unnecessary delays in the processing of such allegations may be grounds for imposing a lesser level of discipline. (Timeliness paragraphs due to agreements in the Police Associations Memorandum of Understanding.)

324.4.1 TRAINING

In some cases, training may be an appropriate level of discipline or included with other levels of discipline. In determining whether training is appropriate, the employee's Division Commander should consider if training will assist in correcting deficiencies in employee performance. This can be accomplished by:

(a) Documenting the need for training to correct deficiencies in employee performance.

(b) Provide the employee with appropriate training to correct deficiencies in employee performance and determine that the employee has acknowledged and benefited from the training to where it has assisted in correcting his/her performance.

(c) Document that the training has been provided to the employee.

324.4.2 WRITTEN REPRIMANDS

Written reprimands shall be administered by management level employees. They may include:

(a) A summary of the circumstances.

(b) A narrative identifying the policy violations.

(c) Admonishment that future violations may result in progressive discipline.

Any employee wishing to formally appeal a written reprimand or punitive transfer must submit a written request to his/her Division Commander within thirty (30) days of receipt of the written reprimand or the notice of punitive transfer. If that Division Commander issued the original written reprimand or notice of punitive transfer, then that Division Commander will then assign the appeal to another Division Commander (Government Code § 3306).

Absent a written stipulation to the contrary, the employee will be provided with an administrative hearing before the assigned Division Commander within ten (10) days. The decision of the assigned Division Commander to sustain, modify or dismiss the written reprimand or punitive transfer shall be final and binding.

324.4.3 DISCIPLINARY SUSPENSION

The Chief of Police or Division Commanders can recommend disciplinary suspensions for employees. The procedures for a disciplinary suspension are as follows:

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(a) A disciplinary suspension will be scheduled as soon as practical and the date(s) of the suspension shall be scheduled according to Department staffing needs and/or limitations.

(b) The date(s) shall be decided by the Chief of Police or his/her designee.

(c) At no time will the disciplined employee be allowed to work or post overtime during any pay period that includes suspension from duty.

324.5 POST INVESTIGATION PROCEDURES

324.5.1 DIVISION COMMANDER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Commander of the involved employee shall review the entire investigative file, the employee's personnel file and any other relevant materials.

The Division Commander shall make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed with input from the employees supervisors as appropriate. The Division Commander shall forward the investigative report along with any disciplinary recommendation (written or verbal) to the Chief of Police within seven calendar days from the date the report was received.

(a) 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.

(b) When forwarding any recommendation to the Chief of Police, the Division Commander shall include a copy of the charges and all materials relied upon in making the recommendation. Actual copies of an employee's existing personnel file need not be provided and may be incorporated by reference.

324.5.2 RESPONSIBILITIES OF THE CHIEF OF POLICE

Upon receipt of any written or verbal recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials.

The Chief of Police may modify any recommendations 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, to be recommended.

In the event that disciplinary action is recommended by the Division Commander and/or the Chief of Police, the employee shall be served with a written (Skelly) notice of the recommendation for discipline within one year of the date of the discovery of the alleged misconduct (absent an exception set forth in Government Code § 3304(d) or Government Code § 3508.1).

The written notice of recommendation for discipline shall contain the following information:

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(a) Notice of the proposed action.

(b) The reason for such action.

(c) A copy of the charges and all materials on which the action is based.

(d) A notice of the right to respond, either orally or in writing, to the Chief of Police within five days of receiving the Skelly notice (or within the time frame specified in the applicable Memorandum of Understanding).

1. Upon a showing of good cause by the employee, the Chief of Police may grant a reasonable extension of time for the employee to respond.

2. If the employee elects to respond orally, the presentation shall be recorded by the Department. Upon request, the employee shall be provided with a copy of the recording.

324.5.3 DISCRIMINATION, OPPRESSION OR FAVORITISM

Discriminating against, oppressing or providing favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, marital status, physical or mental disability, medical condition or other classification 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.

324.5.4 RELATIONSHIPS

(a) Unwelcome solicitation of a personal or sexual relationship while onduty 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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324.5.5 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 place of assignment at time specified and fully prepared to perform duties without reasonable excuse.

324.5.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

(a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the member's position with this department.

(b) Disclosing to any unauthorized person any active investigation information.

(c) The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.

(d) Loaning, selling, allowing unauthorized use, giving away or appropriating any Hayward Police Department badge, uniform, identification card or department property for personal use, personal gain or any other improper or unauthorized use or purpose.

(e) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and nonsubpoenaed records.

324.5.7 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.

(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.

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324.5.8 PERFORMANCE

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

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

(c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any departmentrelated business.

(d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.

(e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.

(f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:

1. While on department premises.
2. At any work site, while onduty or while in uniform, or while using any department equipment or system.
3. Gambling activity undertaken as part of an officer official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.

(g) Improper political activity including:

1. Unauthorized attendance while onduty at official legislative or political sessions.
2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while onduty or, on department property except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.

(h) Engaging in political activities during assigned working hours except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.

(i) Any act on or offduty that brings discredit to this department.

324.5.9 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

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enforcement agency or that may result in criminal prosecution or discipline under this policy.

(b) Unreasonable and unwarranted force to a person encountered or a person under arrest.

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

(d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.

(e) Engaging in horseplay that reasonably could result in injury or property damage.

(f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.

(g) Use of obscene, indecent, profane or derogatory language while onduty or in uniform.

(h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.

(i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.

(j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.

(k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.

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

(m) Any other on or offduty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

324.5.10 SAFETY

(a) Failure to observe or violating department safety standards or safe working practices.

(b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).

(c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.

(d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.

(e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.

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(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.

324.5.11 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.

324.6 EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

(a) This Skelly response is not intended to be an adversarial or formal hearing.

(b) Although the employee may be represented by an uninvolved representative or legal counsel, the Skelly response is not designed to accommodate the presentation of testimony or witnesses.

(c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.

(d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results of such subsequent investigation prior to the imposition of any discipline.

(e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issue(s) of information raised in any subsequent investigation.

(f) Once the employee has completed his/her Skelly response or, if the employee has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. Once the Chief of Police determines that discipline will be imposed, a timely written decision shall be provided

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to the employee within 45 days, imposing, modifying or rejecting the recommended discipline. In the event of a termination, the final notice of discipline shall also inform the employee of the reason for termination and the process to receive all remaining fringe and retirement benefits.

(g) Once the Chief of Police has issued a written decision, the discipline shall become effective.

324.7 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that an employee tenders a written retirement or resignation prior to the imposition of discipline, it shall be noted in the file.

The tender of a retirement or resignation by itself shall not serve as grounds for the termination of pending discipline.

324.8 POST SKELLY PROCEDURE

In situations resulting in the imposition of a suspension, punitive transfer, demotion, termination of a non-probationary employee, the employee shall have the right to an evidentiary appeal of the Chief of Police's imposition of discipline pursuant to the operative Memorandum of Understanding (MOU) or collective bargaining agreement and personnel rules.

During any post-Skelly 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 penalty. (Government Code § 3305.5).

324.8.1 DISMISSAL PROCEDURE

In cases where an employee is dismissed from employment, the employee shall be provided with a written statement citing the effective date and the reason of dismissal per Government Code Section § 3304(f). In addition, the Human Resources Department will provide the dismissed employee with a statement of the status of fringe and retirement benefits.

324.9 DISCIPLINARY ACTION AGAINST PROBATIONARY EMPLOYEES

In the event that a probationary employee is released on probation or disciplined, the employee shall have no right to an administrative appeal and the following shall be considered:

(a) Release on probation of a probationary employee for such failure to pass probation shall be so reflected in the employee's personnel file.

(b) In the event that a probationary employee is released on probation or disciplined for misconduct, the employee shall only be entitled to a hearing in the same manner as set forth in the Skelly procedure as set forth above. This hearing may be held prior to or within a reasonable time after the release from probation or the imposition of discipline.

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(c) At all times during any investigation of allegations of misconduct involving a probationary officer, such officer shall be afforded all procedural rights set forth in Government Code § 3303 and applicable Department policies.

(d) A probationary employee's hearing shall be limited to an opportunity for the employee to attempt to establish that the underlying allegations should not be sustained. Nothing in this policy or procedure, however, should be construed to establish any sort of property interest in or right to the employee's continuation of employment.

(e) The burden of proof for any probationary employee's hearing shall rest with the employee and will require proof by a preponderance of the evidence.

(f) In the event that a probationary employee meets his or her burden of proof in such a hearing, the Department shall remove all reference to the underlying allegations of misconduct from the employee's personnel file.

(g) In the event that a probationary employee fails to meet his or her burden of proof in such a hearing, the employee shall have no further right to appeal the decision of the Chief of Police.

324.10 REVISIONS

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Information Technology Use

325.1 PURPOSE AND SCOPE

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

325.1.1 ACCREDITATION STANDARDS

This section pertains to CALEA Standards: 11.4.4, 41.3.7, 81.3.1, 82.1.2, 82.1.6.

325.1.2 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 Hayward 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 or department funding.

Hardware - Includes, but is not limited to, computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, pagers, 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. 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.

325.1.3 PRIVACY POLICY

Any employee utilizing any computer, electronic storage device or media, Internet service, phone service, information conduit, system or other wireless service provided by or funded by the Department expressly acknowledges and agrees that the use of such service, whether for business or personal use, shall remove any expectation of privacy the employee, sender and recipient of any communication utilizing such service might otherwise have, including as to the content of any such communication. The Department also expressly reserves the right to access and audit any and all communications, including content that is sent, received and/or stored through the use of such service.

325.2 POLICY

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

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325.3 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 computer system.

The Department 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, including the department email system, computer network and/or any information placed into storage on any department system or device. This includes records of all keystrokes or Web-browsing history made at any department computer or over any department network. The fact that access to a database, service or website requires a username or password will not create an expectation of privacy if it is accessed through department computers, electronic devices or networks.

However, the Department may not require a member to disclose a personal username or password or open a personal social website, except when access is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

325.4 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.

325.4.1 SOFTWARE AND EXTERNAL DATA

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 computer. Members shall not install personal copies of any software onto any department 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 while on department premises, computer systems or electronic devices. Such unauthorized use of software exposes the Department and involved members to severe civil and criminal penalties.

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

Any other introduction of software or external data requires prior authorization from IT staff, including compliance with all IT security protocols.

325.4.2 HARDWARE

Access to technology resources provided by or through the Department shall be strictly limited to department-related activities. Data stored on or available through department 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-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

325.4.3 INTERNET USE

Internet access provided by or through the Department shall be strictly limited to department-related activities. Internet sites containing information that is not appropriate or applicable to department 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 shall be limited to messages, mail and data files.

325.4.4 OFF-DUTY USE

Members shall only use technology resources provided by the Department 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 resources.

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

325.5 PROTECTION OF AGENCY 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 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

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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.

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.

325.6 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 involving one of its members or a member's duties, an alleged or suspected violation of any department 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 computer system when requested by a supervisor or during the course of regular duties that require such information.

325.7 REVISIONS

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Report Preparation

326.1 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.

326.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.2.5, 61.2.3, 82.2.1, 82.2.2, 83.2.6

326.1.2 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody, should not be held.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Employees who 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.

326.2 REQUIRED REPORTING

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

326.2.1 CRIMINAL ACTIVITY REPORTING

When an employee responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the employee is required to document it. The fact that a victim is not desirous of prosecution is not an exception to documenting the incident. The following are examples of required documentation:

(a) In every instance where a felony has occurred, the documentation shall take the form of a written crime report.

(b) In every instance where a misdemeanor crime has occurred and the victim desires a report, the documentation shall take the form of a written crime report.

(c) In every instance of UCR Part Two Crimes:

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1. Thefts of any type, including;
2. Auto Burglary
3. Petty Theft
4. Auto Theft or attempt Auto Theft
5. Forgery
6. Embezzlement
7. Defrauding an Innkeeper, or
8. Battery of a person

(d) In every case where any force is used against any person by police personnel.

(e) All incidents involving Domestic Violence.

(f) All arrests.

(g) In other instances where a misdemeanor crime has occurred and the victim does not desire a report, the documentation shall take the form of a Mobile Data Terminal (MDT) report. Refer to Procedure Manual § O114.4, MDT Reporting Procedures.

326.2.2 NON-CRIMINAL ACTIVITY

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

(a) Anytime an officer points a firearm at any person.

(b) Any use of force against any person by a member of this department (see the Use of Force Policy).

(c) Any firearm discharge (see the Firearms Policy).

(d) Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy).

(e) Any found property or found evidence.

(f) Any traffic collisions above the minimum reporting level (see Traffic Collision Reporting Policy).

(g) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy.

(h) All protective custody detentions.

(i) Suspicious incidents that may place the public or others at risk.

(j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor.

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326.2.3 DEATH CASES

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with the Death Investigations Policy. The handling officer should notify and apprise a supervisor of the circumstances surrounding the incident to determine how to proceed. The following cases shall be appropriately investigated and documented using the approved report:

(a) Sudden or accidental deaths.

(b) Suicides.

(c) Homicide or suspected homicide.

(d) Unattended deaths (No physician or qualified hospice care in the 20 days preceding death).

(e) Found dead bodies or body parts.

326.2.4 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.

326.2.5 MISCELLANEOUS INJURIES

Any injury that is reported to this Department shall require a report when:

(a) The injury is a result of drug overdose.

(b) Attempted suicide.

(c) The injury is major and/or 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.

326.2.6 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).

326.3 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.

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326.3.1 GENERAL POLICY OF HANDWRITTEN REPORTS
Some incidents and report forms lend themselves to block print rather than typing. In general, the narrative portion of those reports where an arrest is made or when there is a long narrative should be typed or dictated.

Supervisors may require, with the foregoing general policy in mind, block printing or typing of reports of any nature for Departmental consistency.

326.3.2 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.

326.4 REPORT CORRECTIONS
Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor shall return the report 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.

326.5 REPORT CHANGES OR ALTERATIONS
Reports that have been approved by a supervisor and submitted to the Records Management Mobile Merge Queue for merging shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records Management Merge Queue may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.

326.6 REPORT WRITING AND INVESTIGATIONS MANUAL
All reports shall be written in accordance with the instructions of the Hayward Police Department Report Writing and Investigations Manual.

326.7 REVISIONS
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Report Preparation

Revised: June 21, 2021

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Media Relations

327.1 PURPOSE AND SCOPE

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

327.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.2.4, 54.1.1, 54.1.2, 54.1.3, 82.1.1, 82.1.2

327.1.2 MEDIA PHILOSOPHY

Support of the community is critical for the Hayward Police Department to be successful in its unyielding pledge to provide quality service to the public. Openness, fluid communication and operational transparency are essential elements to gaining the public's trust and understanding of our efforts to be successful in delivering those services. Establishing and maintaining an effective relationship with the news media is crucial to accomplishing this goal.

It is the policy of this agency to treat members of the media with professionalism and ethical behavior. It is expected that the media will respond in a like manner and follow ethical guidelines established by their industry.

327.2 POLICY

It is the policy of the Hayward 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.

327.3 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 Public Information Officers ([PIO]s) may prepare and release information to the media in accordance with this policy and the applicable laws regarding confidentiality.

327.4 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.

(b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.

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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.

327.4.1 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].

327.4.2 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).

327.5 MEETINGS WITH THE MEDIA

Reaffirming this agency's commitment to positive media relations, the agency head and PIO shall meet on a regular basis with media representatives to discuss issues of mutual interest or concern. Proposed or anticipated changes in Department policy or procedures dealing with the media also will be addressed at that time.

327.6 MEDIA RIDE ALONGS

Media personnel may ride along with on-duty police employees only if approved by the Chief of Police. Those so authorized shall abide by all provisions of the Ride-Along Policy, including the completion of a signed liability waiver as is required for members of the general public. There are, however, additional restrictions applicable to media and journalists regarding their access to private property and confidential information potentially encountered during a ride along.

(a) Media personnel who accompany Hayward Police Department personnel are prohibited from accompanying police employees into areas that are not accessible to the public, specifically areas wherein officers gain access due to their authority as

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peace officers, including but not limited to homes, dwellings, backyards, ambulances, or any area where a reasonable expectation of privacy exists.

(b) Officers shall not in any way negotiate or facilitate any waiver or consent for media personnel to accompany them into private areas. Waivers of liability are the equivalent of a business contract entered into by the media and occupants of the premises and shall not be part of the police function.

1. Without a waiver, which is in most cases impractical for news personnel to acquire without interfering with emergencies or unfolding circumstances, officers shall ensure media personnel observe only from areas accessible to the public.

327.7 LIVE COVERAGE AGREEMENTS

Live coverage agreements establish voluntary guidelines for the broadcast of live pictures or information emanating from critical incidents scenes such as hostage situations, barricaded subjects and other ongoing crises. This agency supports the creation, implementation and use of such agreements.

327.8 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of officers and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the 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.

327.9 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

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circumstances the member should direct the media to the agency handling the incident.

327.10 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.

327.10.1 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.

327.11 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.

327.11.1 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).

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(c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident.

At no time shall identifying information pertaining to a juvenile arrestee (13 years of age and under), victim, or witness be publicly released without prior approval of a competent court. The identity of a minor 14 years of age or older shall not be publicly disclosed unless the minor has been arrested for a serious felony and the release of such information has been approved by the Watch Commander (Welfare and Institutions Code § 827.5).

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner.

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated [department/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).

327.12 REVISIONS

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Subpoenas and Court Appearances

328.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Hayward Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

328.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 74.1.1, 74.1.2, 74.2.1

328.1.2 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.

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.

328.2 POLICY

Hayward Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

328.2.1 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.

328.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this department 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 departmental 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.

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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)).

328.3.1 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.

(d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Hayward Police Department.

(e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Hayward 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.

328.3.2 CIVIL SUBPOENA

The Department 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 should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

328.3.3 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.

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328.4 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.

328.5 STANDBY

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

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.

328.6 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 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.

328.6.1 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.

328.7 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.

328.8 REVISIONS

Enacted: December 17, 2007

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Reserve Officers

329.1 PURPOSE AND SCOPE

The Hayward 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.

329.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 16.3.1, 16.3.2, 16.3.3, 16.3.4, 16.3.5, 16.3.6, 16.3.7, 16.3.8

329.2 SELECTION AND APPOINTMENT OF POLICE RESERVE OFFICERS

The Hayward 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.

329.2.1 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:

(a) Level II Reserve, Regular Basic Course, Modules II & III; or

(b) Level I Reserve, Regular Basic Course, Modules I, II & III; or

(c) Basic Academy; or

(d) Extended Basic Academy.

A level III applicant must complete POST Level III training prior to hiring.

329.2.2 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.

329.2.3 COMPENSATION FOR POLICE RESERVE OFFICERS

Compensation for reserve officers is provided as follows:

All reserve officer appointees are issued two sets of uniforms and all designated attire and safety equipment. All property issued to the reserve officer shall be returned to the Department upon termination or resignation. Reserves shall receive a yearly uniform allowance equal to that of regular officers.

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329.2.4 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 Commander should consult the Department of Human Resources prior to an employee serving in a reserve or volunteer capacity (29 CFR 553.30).

329.3 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.

329.3.1 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.

329.3.2 RESERVE OFFICER ASSIGNMENTS
All reserve officers will be assigned to duties by the Reserve Coordinator or his/her designee.

329.3.3 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

329.4 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

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subsection, to work under the immediate supervision of a peace officer who possesses a Basic POST Certificate.

329.4.1 TRAINING OFFICERS

Officers of this [department/office], who demonstrate a desire and ability to train reserve officers, may train the reserves during Phase II, subject to Watch Commander approval.

329.4.2 PRIMARY TRAINING OFFICER

Each new Reserve Officer will be issued a Field Training Manual at the beginning of his/her training period. This manual is an outline of the subject matter and/or skills necessary to properly function as a police officer with the Hayward 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.

329.4.3 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 Hayward 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.

329.4.4 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.

329.4.5 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.

329.4.6 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.

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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.

329.4.7 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.

329.5 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.

329.5.1 SPECIAL AUTHORIZATION REQUIREMENTS

Reserve officers certified as Level I may, with prior authorization of the Reserve Coordinator and on approval of the Division Commander, be relieved of the "immediate supervision" requirement. Level I reserve officers may function under the authority of Penal Code § 832.6(a)(1) only for the duration of the assignment or purpose for which the authorization was granted.

In the absence of the Reserve Coordinator and the Division Commander, the Watch Commander may assign a certified Level I reserve officer to function under the authority of Penal Code § 832.6(a)(1) for specific purposes and duration.

329.5.2 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.

329.5.3 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, with the exception that "Reserve" will be indicated on the badge. The identification card will be the standard identification card with the exception that "Reserve" will be indicated on the card.

329.5.4 UNIFORM

Reserve officers shall conform to all uniform regulations and appearance standards of this department.

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329.5.5 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 Commander, at the discretion of the Chief of Police or his/her designee.

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 this Policy Manual.

329.5.6 RESERVE OFFICER EVALUATIONS
Performance evaluations for all reserve officers shall be completed by the Reserve's immediate supervisor consistent with the Evaluation of Employees Policy.

329.6 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.

329.6.1 CARRYING WEAPON ON DUTY
Penal Code § 830.6(a)(1) permits qualified reserve officers to carry a loaded firearm while on duty.

329.6.2 CONCEALED FIREARMS
Consistent with federal law, it is the policy of this department to enhance the personal protection of current and former law enforcement officers when off-duty or following separation from service. In accordance with this policy, the department shall (1) comply with the Law Enforcement Officers Safety Act (LEOSA), (2) implement procedures in conformity with LEOSA, and (3) permit qualified current and separated Level One reserve law enforcement officers to carry a concealed firearm in accordance with LEOSA.

329.6.3 RESERVE OFFICER FIREARM TRAINING
All Police 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 Firearms and Qualification Policy.

329.7 EMERGENCY CALL-OUT FOR RESERVE PERSONNEL
The Reserve Coordinator shall develop a plan outlining an emergency call-out procedure for reserve personnel.

329.8 REVISIONS
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Reserve Officers

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Mutual Aid and Outside Agency Assistance

330.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to officers in the request of or answering the request for assistance involving another law enforcement agency.

It is the policy of this Department to provide assistance whenever possible, consistent with the applicable laws of arrest and detention policies of this Department, when another law enforcement agency requests assistance with an arrest or detention of any person. This Department may also request an outside agency to provide assistance.

330.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

330.2 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES

If assistance is needed from another agency, the employee requesting assistance shall first notify a supervisor of his/her intentions. The handling officer or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting officer should secure radio frequencies for use by all involved agencies so that communication can be coordinated as needed. If necessary, reasonable effort should be taken to provide radio equipment capable of communicating on the assigned frequency to any personnel who do not have compatible radios.

330.3 ASSISTING OUTSIDE AGENCIES

Generally, calls for assistance from other agencies are routed to the Watch Commander for approval. When an authorized employee of an outside agency requests the assistance of this Department in taking a person into custody, available officers shall respond and assist in making a lawful arrest. If an officer receives a request in the field for assistance, that officer shall notify a supervisor. Arrestees may be temporarily detained by our agency until arrangements for transportation are made by the outside agency. Only in exceptional circumstances will this Department provide transportation of arrestees to other county facilities.

When such assistance is rendered, a case number will be issued to report action taken by Hayward Police Department Personnel. Probation violators temporarily detained by this Department will not ordinarily be booked at this Department.

330.4 REVISIONS

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Revised: May 23, 2016

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Registered Offender Information

331.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Hayward Police Department will address issues associated with certain offenders who are residing in the jurisdiction and how the Department will disseminate information and respond to public inquiries for information about registered sex, arson and drug offenders.

331.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 82.1.1

331.2 POLICY

It is the policy of the Hayward 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.

331.3 REGISTRATION

The Criminal Investigations 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.

331.3.1 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.).

331.4 MONITORING OF REGISTERED OFFENDERS

The Criminal Investigation 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.

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(c) Contact with a registrant's parole or probation officer.

Any discrepancies should be reported to the California DOJ.

The Criminal Investigation Bureau Supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Hayward personnel, including timely updates regarding new or relocated registrants.

331.5 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 Hayward Police Department's website. Information on sex registrants placed on the Hayward Police Department's website shall comply with the requirements of Penal Code § 290.46.

The Records Administrator 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).

331.5.1 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.

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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).

331.5.2 RELEASE NOTIFICATIONS
Registrant information that is released should include notification that:

(a) The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.

(b) The information is provided as a public service and may not be current or accurate.

(c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.

(d) The crime for which a person is convicted may not accurately reflect the level of risk.

(e) Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.

(f) The purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders (Penal Code § 290.45).

331.6 REVISIONS
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Major Incident Notification

332.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of this Department in determining when, how and to whom notification of major incidents should be made.

332.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 11.4.5, 41.2.4, 81.2.4

332.2 POLICY

The Hayward recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this Department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

332.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police and the affected Division Commander. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides
- Traffic accidents with fatalities
- Officer-involved shooting - on or off duty (see Officer-Involved Shootings and Deaths Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Death of a prominent Hayward official
- Arrest of a department employee or prominent Hayward official
- Aircraft crash with major damage and/or injury or death
- In-custody deaths

332.3.1 DIVISION COMMANDER ONLY NOTIFICATION OR DELAYED NOTICE

Notification should be made up the chain of command. The Division Commander is responsible to ascertain whether the Chief of Police should be notified immediately or at a later time.

In determining when to notify the Chief of police the Division Commander should consider time of day, public or media access to the Chief of Police and the need for immediate action on the part of the Chief.

332.4 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

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soon as practicable. Notification should be made by calling the home telephone number first and then by any other available contact numbers.

332.4.1 STAFF NOTIFICATION
In the event a major incident occurs as described in the Policy Manual, the Chief of Police shall be notified along with the affected Division Commander and the Criminal Investigation Bureau Lieutenant if that division is affected.

332.4.2 INVESTIGATION NOTIFICATION
If the incident requires a response from a Criminal Investigation Bureau investigator, the Criminal Investigations Bureau on-call Sergeant and/or Lieutenant shall be contacted who will then contact the appropriate investigator(s).

332.4.3 TRAFFIC BUREAU NOTIFICATION
In the event of a traffic fatality or major injury, the Traffic Sergeant shall be notified who will then contact the appropriate accident investigator. The Traffic Sergeant will also notify the Traffic Lieutenant.

332.4.4 PUBLIC INFORMATION OFFICER (PIO)
The Public 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.

332.5 REVISIONS
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Death Investigation

333.1 PURPOSE AND SCOPE

The investigations of cases involving death include those ranging from natural cause to homicide. Some causes of death may not be readily apparent and some cases differ substantially from what they appeared to be initially. The thoroughness of death investigations cannot be emphasized enough.

333.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.2.4, 55.2.6

333.2 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Paramedics shall be called in all suspected death cases unless the death is obvious (decapitated, decomposed, etc.). A supervisor shall be notified in all death investigations.

333.2.1 CORONER REQUEST

Government Code § 27491 and Health & Safety Code § 102850 direct the Coroner to inquire into and determine the circumstances, manner and cause of certain deaths. The Coroner shall be called in any of the following cases:

(a) Unattended deaths (No physician in attendance or during the continued absence of the attending physician. Also, includes all deaths outside hospitals and nursing care facilities).

(b) Deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by Health and Safety Code § 1746 in the 20 days prior to death.

(c) Physician unable to state the cause of death. Unwillingness does not apply. Includes all sudden, unexpected and unusual deaths and fetal deaths when the underlying cause is unknown.

(d) Known or suspected homicide.

(e) Known or suspected suicide.

(f) Involving any criminal action or suspicion of a criminal act. Includes child and dependent adult negligence and abuse.

(g) Related to or following known or suspected self-induced or criminal abortion.

(h) Associated with a known or alleged rape or crime against nature.

(i) Following an accident or injury (primary or contributory). Deaths known or suspected as resulting (in whole or in part) from or related to accident or injury, either old or recent.

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(j) Drowning, fire, hanging, gunshot, stabbing, cutting, starvation, exposure, alcoholism, drug addiction, strangulation or aspiration.

(k) Accidental poisoning (food, chemical, drug, therapeutic agents).

(l) Occupational diseases or occupational hazards.

(m) Known or suspected contagious disease and constituting a public hazard.

(n) All deaths in operating rooms and all deaths where a patient has not fully recovered from an anesthetic, whether in surgery, recovery room or elsewhere.

(o) In prison or while under sentence. Includes all in-custody and police involved deaths.

(p) All deaths of unidentified persons.

(q) All deaths of state hospital patients.

(r) Suspected Sudden Infant Death Syndrome (SIDS) deaths.

(s) All deaths where the patient is comatose throughout the period of the physician's attendance. Includes patients admitted to hospitals unresponsive and expire without regaining consciousness.

The body shall not be disturbed or moved from the position or place of death without permission of the coroner.

333.2.2 SEARCHING DEAD BODIES

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

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

333.2.3 DEATH NOTIFICATION

When practical, and if not handled by the Coroner's Office, notification to the next-of-kin of the deceased person shall be made, in person, by the officer assigned to the incident. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification. If the relatives live outside this county, the Coroner may be

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requested to make the notification. The Coroner needs to know if notification has been made. Assigned investigator(s) may need to talk to the next-of-kin.

333.2.4 UNIDENTIFIED DEAD BODIES
If the identity of a dead body cannot be established after the Coroner arrives, the Coroner's office will issue a "John Doe" or "Jane Doe" number for the report.

333.2.5 DEATH INVESTIGATION REPORTING
All incidents involving a death shall be documented in the associated police report.

333.2.6 SUSPECTED HOMICIDE
If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the Criminal Investigations Bureau shall be notified to determine the possible need for an Inspector and/or Detective to respond to the scene for further immediate investigation.

333.2.7 EMPLOYMENT RELATED DEATHS OR INJURIES
Any member of this agency who responds to and determines that a death, serious illness, or serious injury has occurred as a result of an accident at or in connection with the victim's employment shall 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)).

333.3 REVISIONS
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Identity Theft

334.1 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.

334.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 42.2.8, 82.2.1

334.2 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 whose actual residence or place of business was 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. If the suspected crime(s) were committed in different jurisdiction(s), but the victim resides or works within this jurisdiction, you shall initiate a report in compliance with Penal Code § 530.6 then refer the report to the law enforcement agency(s) where the suspected crime was committed for further investigation of the facts. The referral shall be made through the Records Division utilizing a referral letter, which will be prepared by the Records Division upon receiving a referral request from the reporting officer. (i.e. report routing)

2. For any victim not residing or working within this jurisdiction and there is no evidence that the crime occurred within the jurisdiction of this Department, 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 our 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.

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(e) The reporting officer should inform the victim 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 investigator for follow up investigation, coordination with other agencies and prosecution as circumstances dictate.

334.2.1 REPORTING FORMS

Officers shall document an identity theft investigation using the standard crime reporting process in the Records Management System.

334.3 PREVENTION AND VICTIM ASSISTANCE

Fraud prevention and victim assistance materials are available on the City of Hayward website and at www.identitytheftcouncil.org. The Criminal Investigations Bureau Supervisor is responsible for causing the materials to be updated when necessary.

Department members should refer victims to the City of Hayward website and/or the Identity Theft Council and document the referral in the narrative of the report. Department Members should offer a Victims of Identity Theft Information Pamphlet to all victims of identity theft as it contains information to further assist victims in reestablishing their credit and identity.

334.4 REVISIONS

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Private Persons Arrests

335.1 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.

335.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.2.5, 1.2.6, 1.2.7, 82.2.1

335.2 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.

335.3 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 <u>not</u> make an arrest on suspicion that a felony has been committed - the felony must in fact have taken place.

335.4 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.

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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.
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.

335.5 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest, the individual must sign a written statement indicating they have made a citizen's arrest.

In addition to the written statement (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.

335.6 REVISIONS

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Limited English Proficiency Services

337.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

337.1.1 ACCREDITATION STANDARDS

This section pertains to CALEAStandard: 1.2.3

337.1.2 DEFINITIONS

Definitions related to this policy include:

Authorized interpreter - A person who has been screened and authorized by the [Department/Office] 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 Hayward Police Department, designated by the [Department/Office], 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).

337.2 POLICY

It is the policy of the Hayward 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.

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337.3 LEP COORDINATOR

The Chief of Police may delegate certain responsibilities to an LEP Coordinator. The LEP Coordinator may be appointed by, and directly responsible to, Patrol Division Commander or the authorized designee.

The responsibilities of the LEP Coordinator include, but are not limited to:

(a) Coordinating and implementing all aspects of the Hayward Police Department's LEP services to LEP individuals.

(b) Developing procedures that will enable members to access LEP services, including telephonic interpreters, and ensuring the procedures are available to all members.

(c) Ensuring that a list of all qualified bilingual members and authorized interpreters is maintained and available to each Watch Commander and Communications Administrator. The list should include information regarding the following:

1. Languages spoken
2. Contact information
3. Availability

(d) Ensuring signage stating that interpreters are available free of charge to LEP individuals is posted in appropriate areas and in the most commonly spoken languages.

(e) Reviewing existing and newly developed documents to determine which are vital documents and should be translated, and into which languages the documents should be translated.

(f) Annually assessing demographic data and other resources, including contracted language services utilization data and community-based organizations, to determine if there are additional documents or languages that are appropriate for translation.

(g) Identifying standards and assessments to be used by the Department to qualify individuals as qualified bilingual members or authorized interpreters.

(h) Periodically reviewing efforts of the Department in providing meaningful access to LEP individuals, and, as appropriate, developing reports, new procedures or recommending modifications to this policy.

(i) Receiving and responding to complaints regarding department LEP services.

(j) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

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337.4 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

(a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.

(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.

337.5 TYPES OF LEP ASSISTANCE AVAILABLE

Hayward 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.

337.6 WRITTEN FORMS AND GUIDELINES

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP Coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

337.7 AUDIO RECORDINGS

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

337.8 QUALIFIED BILINGUAL MEMBERS

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently

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communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

When a qualified bilingual member from this department is not available, personnel from other City departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

337.9 AUTHORIZED INTERPRETERS

Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the LEP Coordinator which demonstrates that their skills and abilities include:

(a) The competence and ability to communicate information accurately in both English and in the target language.

(b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this department and of any particularized vocabulary or phraseology used by the LEP individual.

(c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

(d) Knowledge of the ethical issues involved when acting as a language conduit.

337.9.1 SOURCES OF AUTHORIZED INTERPRETERS

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this department or personnel from other City departments.
- Individuals employed exclusively to perform interpretation services.

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- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

337.9.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

337.10 CONTACT AND REPORTING

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

337.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The Hayward 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.

337.11.1 EMERGENCY CALLS TO 9-1-1

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to

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initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in the Communications Center, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

337.12 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

337.13 INVESTIGATIVE FIELD INTERVIEWS

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

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Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

337.14 CUSTODIAL INTERROGATIONS

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

337.15 BOOKINGS

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

337.16 COMPLAINTS

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the LEP Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

337.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

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337.18 TRAINING

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

The Personnel and Training Administrator 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 Personnel and Training Administrator 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.

337.18.1 TRAINING FOR AUTHORIZED INTERPRETERS

All members on the authorized interpreter list must successfully complete prescribed interpreter training. To complete interpreter training successfully, an interpreter must demonstrate proficiency in and ability to communicate information accurately in both English and in the target language, demonstrate knowledge in both languages of any specialized terms or phraseology, and understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

Members on the authorized interpreter list must receive refresher training annually or they will be removed from the authorized interpreter list. This annual training should include language skills competency (including specialized terminology) and ethical considerations.

The Personnel and Training Administrator shall be responsible for coordinating the annual refresher training and will maintain a record of all training the interpreters have received.

337.19 REVISIONS

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Communications with Persons with Disabilities

338.1 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.

338.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.2.3, 81.2.1

338.1.2 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.

338.2 POLICY

It is the policy of the Hayward Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

338.3 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 responsible to the Support Services 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 Hayward Police Department's efforts to ensure equal access to services, programs and activities, as necessary.

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(b) Developing reports, new procedures, or recommending modifications to this policy.

(c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.

(d) Ensuring that a list of qualified interpreter services is maintained and available.

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(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) Directing any complaints and inquiries received regarding discrimination in access to department services, programs and activities to the Internal Affairs Unit.

338.4 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

(a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.

(b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).

(c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).

(d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

338.5 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

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In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

(a) The methods of communication usually used by the individual.

(b) The nature, length and complexity of the communication involved.

(c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Hayward 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.

338.6 TYPES OF ASSISTANCE AVAILABLE

Hayward Police Department members shall never refuse to assist an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

338.7 AUDIO RECORDINGS AND ENLARGED PRINT

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

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338.8 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or investigation involving the disabled individual. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

(a) Available within a reasonable amount of time but in no event longer than one hour if requested.

(b) Experienced in providing interpretation services related to law enforcement matters.

(c) Familiar with the use of VRS and/or video remote interpreting services.

(d) Certified in either American Sign Language (ASL) or Signed English (SE).

(e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

(f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

338.9 TTY AND RELAY SERVICES

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The Department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

338.10 COMMUNITY VOLUNTEERS

Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the Department to provide interpreter services.

Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members

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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.

338.11 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.

338.12 REPORTING

Whenever any member of this department is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

338.13 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the 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

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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.

338.13.1 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.

338.14 CUSTODIAL INTERROGATIONS

In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

338.15 ARREST AND BOOKINGS

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or

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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.

338.16 COMPLAINTS

The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the department ADA Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Department.

338.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

338.18 TRAINING

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

(a) Awareness and understanding of this policy and related procedures, related forms and available resources.

(b) Procedures for accessing qualified interpreters and other available resources.

(c) Working with in-person and telephone interpreters and related equipment.

The Personnel and Training Administrator shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including individuals who are deaf, hard of hearing, who have impaired speech or vision, or are blind. Those who may have contact with such individuals should receive refresher training at least once every two

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years thereafter. The Personnel and Training Administrator shall maintain records of all training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

338.18.1 CALL-TAKER TRAINING

Emergency call-takers shall be trained in the use of TTY equipment protocols for communicating with individuals who are deaf, hard of hearing or who have speech impairments. Such training and information should include:

(a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.

(b) ASL syntax and accepted abbreviations.

(c) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls, using proper syntax, abbreviations and protocol when responding to TTY or TDD calls.

(d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

Training should be mandatory for all the Communications Center members who may have contact with individuals from the public who are deaf, hard of hearing or have impaired speech. Refresher training should occur every six months.

338.19 REVISIONS

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Mandatory School Employee Reporting

339.1 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.

339.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 82.1.1, 82.2.4

339.2 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.

339.2.1 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).

339.2.2 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).

339.2.3 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).

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339.2.4 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 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).

339.3 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).

339.4 REVISIONS

Enacted: December 17, 2007

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Revised: May 23, 2016

Revised:March 3, 2017

Revised: June 7, 2020

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Biological Samples

340.1 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.

340.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.2.4, 1.3.1

340.2 POLICY

The Hayward 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.

340.3 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.

340.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

340.4.1 COLLECTION

The following steps should be taken to collect a sample:

(a) Verify that the individual is required to provide a sample pursuant to Penal Code § 296; Penal Code § 296.1.

(b) Verify that a biological sample has not been previously collected from the offender by querying the individual's criminal history record for a DNA collection flag or, during regular business hours, calling the California Department of Justice (DOJ) designated DNA laboratory. There is no need to obtain a biological sample if one has been previously obtained.

(c) Use a DNA buccal swab collection kit provided by the California DOJ to perform the collection and take steps to avoid cross contamination.

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340.5 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order and only with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

(a) The person's parole or probation officer when applicable.

(b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.

(c) The judge at the person's next court appearance.

(d) The person's attorney.

(e) A chaplain.

(f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.

(g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

340.5.1 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).

340.5.2 CELL EXTRACTIONS

If the use of force includes a cell extraction, the extraction shall be video recorded, including audio. Video shall be directed at the cell extraction event. The video recording shall be retained by the Department for the length of time required by statute. Notwithstanding the use of the video as evidence in a criminal proceeding, the tape shall be retained administratively (15 CCR § 1059).

340.6 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following (refer to the below sub-sections):

340.6.1 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.

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340.6.2 BLOOD SAMPLES
A blood sample should only be obtained under this policy when:

(a) The California DOJ requests a blood sample and the subject consents, or

(b) A court orders a blood sample following a refusal.

The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. A California DOJ collection kit shall be used for this purpose (Penal Code § 298(a); Penal Code § 298(b)(2)).

340.6.3 LITIGATION
The Chief of Police or authorized designee should notify the California DOJ's DNA Legal Unit in the event this department is named in a lawsuit involving the DNA Data Bank sample collection, sample use or any aspect of the state's DNA Data Bank Program.

340.7 REVISIONS
Enacted: December 17, 2007

Revised: August 19, 2008

Revised: February 18, 2009

Revised: July 3, 2009

Revised: April 25, 2012

Revised: April 9, 2013

Revised: April 22, 2014

Revised: May 23, 2016

Revised: March 9, 2023

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Crime Prevention and Community Involvement

341.1 PURPOSE AND SCOPE

The Hayward Police Department recognizes the value and importance of engaging, educating, and partnering with its citizens to prevent crime and serve, protect, and promote a safe community. The Department utilizes paid and volunteer personnel to deliver innovative crime prevention methods and programs. This policy delineates responsibilities and provides basic direction.

341.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 45.1.1, 45.2.2, 45.2.3

341.2 ORGANIZATION AND RESPONSIBILITY

Crime prevention and community education is a shared responsibility of all members of the Hayward Police Department. During the scope of their duties, all members are expected to provide useful crime prevention information to community members whether it be in person, over the telephone, or through media, computer, or written correspondence.

341.2.1 SPECIAL OPERATIONS DIVISION

The Special Operations Division Commander is responsible for the Department's overall crime prevention activities and shall ensure the evaluation and review of these programs at least once every three years.

341.2.2 COMMUNITY PROGRAMS COORDINATOR

The North and South District Commanders, under the direction of the Special Operations Division Commander, develop and carry out procedures for the delivery of crime prevention and community involvement. At least quarterly, the North and South District Commanders will prepare and submit a report to the Chief of Police regarding:

- Current community concerns or potential problems he/she has become aware of;
- Actions he/she recommends regarding the concerns or problems; and
- Any progress made toward the solution of the concerns or problems.

341.2.3 CRIME PREVENTION AND COMMUNITY RELATIONS PROGRAMS

The development and implementation of crime prevention and community relations programs will be prioritized according to the needs of the community. The following guidelines will be followed as appropriate:

(a) Programs will be targeted by crime type and geographic area on the basis of an analysis of local crime data.

(b) Programs will be targeted to address community perceptions or misperceptions of crime.

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(c) The Community Service Officers (CSO) will assist in organizing crime prevention groups in business and residential areas and will remain liaison with these groups.

(d) Crime prevention programs will be conducted in all areas targeted for crime prevention activity and upon request. Activities that may result in positive outcomes include:

1. Drug-related crime prevention programs in schools and within the community.
2. Security surveys conducted for businesses and residences.
3. Dissemination of information to the community regarding the prevailing types of local crimes.

(e) To ensure that crime prevention concerns are addressed prior to construction, the Department will assign a sworn Detective to participate in the development and/or revision of zoning policies, building codes, fire codes, and residential and commercial building permits.

341.3 SPECIAL OPERATIONS DIVISION COMMANDER

The Special Operations Division Commander is responsible to ensure patrol staff engages in crime prevention activities by:

- Offering information about crime prevention programs to victims and community members when possible
- Attending Neighborhood Watch Meetings within their beat when available
- Transmit relevant information received regarding community concerns or problems to the Northern & Southern District Commanders

341.4 REVISIONS

Enacted: July 8, 2009

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Service Animals

342.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to ensure 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 of 1990 (ADA).

342.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

342.1.2 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; 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)).

342.2 POLICY

It is the policy of the Hayward Police Department to provide services and access to persons with service animals in the same manner as those without service animals. Department members shall protect the rights of persons assisted by service animals in accordance with state and federal law.

342.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar.

Service animals may be used in a number of ways to provide assistance, including:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- 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.

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- 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.

342.4 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the Hayward Police Department affords to all members of the public (28 CFR 35.136).

342.4.1 INQUIRY

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 his/her disability nor should the person be asked to provide any license, certification or identification card for the service animal.

342.4.2 CONTACT

Service animals are not pets. Department members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

342.4.3 REMOVAL

If a service animal is not housebroken or exhibits vicious behavior, poses a direct threat to the health of others, or unreasonably disrupts or interferes with normal business operations, an officer may direct the 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)).

Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this department are expected to provide all services as are reasonably available to an individual with a disability, with or without a service animal.

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342.4.4 COMPLAINTS

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their 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).

342.5 REVISIONS

Enacted: January 23, 2009

Revised: July 3, 2009

Revised: April 25, 2012

Revised: May 23, 2016

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Child and Dependent Adult Safety

343.1 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.

343.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

343.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Hayward 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.

343.3 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

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or caregiver suggests this conversation would be non-productive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

343.3.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

(a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.

  1. Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.

  2. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.

(b) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.

(c) Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.

(d) Notify the field supervisor or Watch Commander of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

343.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

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If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

343.3.3 REPORTING

(a) For all arrests where children are present or living in the household, the reporting employee will document the following information:

1. Name
2. Sex
3. Age
4. How, where and with whom or which agency the child was placed

(b) For all arrests where dependent adults are present or living in the household, the reporting employee will document the following information:

1. Name
2. Sex
3. Age
4. Whether he/she reasonably appears able to care for him/herself
5. Disposition or placement information if he/she is unable to care for him/herself

343.3.4 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.

343.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car or taken into formal protective custody.

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

343.5 TRAINING

The Personnel and Training Administrator is responsible to ensure that all personnel of this department who may be involved in arrests affecting children or dependent adults receive

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approved POST-approved training on effective safety measures when a parent, guardian or caregiver is arrested (Penal Code § 13517.7).

343.6 REVISIONS

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Off-Duty Law Enforcement Actions

344.1 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 Hayward Police Department with respect to taking law enforcement action while off-duty.

344.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

344.2 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.

344.3 FIREARMS

Officers of this department may carry firearms while off-duty in accordance with federal regulations and department policy. All firearms and ammunition must meet guidelines as described in the department Firearms Policy. When carrying firearms while off-duty officers shall also carry their department-issued badge and identification.

Officers should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drugs or medications or any combination thereof that would tend to adversely affect the officer's senses or judgment.

344.4 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.

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(b) The inability to communicate with responding units.

(c) The lack of equipment, such as handcuffs, OC or baton.

(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.

344.4.1 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 a Hayward Police Department police officer until acknowledged. Official identification should also be displayed.

344.4.2 INCIDENTS OF PERSONAL INTEREST

Officers should refrain from handling incidents of personal interest and should remain neutral. In such circumstances officers should call the responsible agency to handle the matter.

344.4.3 NON-SWORN RESPONSIBILITIES

Professional staff 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.

344.4.4 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.

344.5 REPORTING

Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, shall notify the Watch Commander as soon as practicable. The Watch Commander shall determine whether a report should be filed by the employee.

Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

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344.6 REVISIONS

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Illness and Injury Prevention

345.1 PURPOSE AND SCOPE

The health and safety of the employees of the Hayward Police Department is important to executive and management staff, and critical to the operation of this department and the delivery of services to the community.

The purpose of this policy is to establish an ongoing and effective Injury and Illness Prevention Program (IIPP) for the Hayward Police Department, in accordance with the requirements of 8 CCR 3203. This policy specifically applies to illnesses and injuries that result in lost time beyond the date of the incident or that require medical treatment beyond first aid. Though this policy provides the essential framework required for an IIPP, it may be supplemented by procedures outside the Policy Manual.

The IIPP guidelines are to be followed and adopted by all personnel. Supervisory and management personnel are charged with ensuring that these guidelines and directives are implemented.

345.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.3.1

345.2 RESPONSIBILITY

The Personnel and Training Manager, acting as the Department's IIPP administrator, has the authority and responsibility for implementing the provisions of this policy and the IIPP. Supervisors are responsible for implementing and maintaining the IIPP in their work areas and for answering questions from employees about the IIPP.

345.3 COMPLIANCE

The Support Services Supervisor is responsible for ensuring that all safety and health policies and procedures are clearly communicated and understood by all employees. The Support Services Supervisor should take reasonable steps to ensure that all workers comply with safety rules and maintain a safe work environment, including, but not limited to:

(a) Informing workers of the provisions of the IIPP.

(b) Recognizing employees who perform safe work practices.

(c) Ensuring that the employee evaluation process includes the employee’s safety performance.

(d) Ensuring the Department’s compliance with mandates regarding:

1. Bloodborne pathogens (8 CCR 5193).
2. Airborne transmissible diseases (8 CCR 5199).
3. Heat illness (8 CCR 3395).

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4. Respiratory protection (8 CCR 5144).

Supervisors are responsible for training, counseling, instructing or making informal verbal admonishments anytime safety performance is deficient. Supervisors may also initiate discipline when it is reasonable and appropriate under the Personnel Complaints Policy.

All employees should use safe work practices, follow all directives and policies and assist in maintaining a safe work environment.

345.4 COMMUNICATION

Supervisors shall establish and maintain communication with employees on health and safety issues. This is essential for an injury-free, productive workplace.

(a) The Support Services Supervisor will ensure that a system of communication is in place which facilitates a continuous flow of safety and health information between supervisors and employees. This system shall include:

1. New worker orientation, including a discussion of safety and health policies and procedures.
2. Regular employee review of the IIPP.
3. Workplace safety and health training programs.
4. Regularly scheduled safety meetings.
5. Posted or distributed safety information.
6. A system for workers to anonymously inform management about workplace hazards.
7. Establishment of a labor/management safety and health committee, which will:
   (a) Meet regularly.
   (b) Prepare a written record of the safety and health committee meeting.
   (c) Review the results of periodic scheduled inspections.
   (d) Review investigations of accidents and exposures.
   (e) Make suggestions to management for the prevention of future incidents.
   (f) Review investigations of alleged hazardous conditions.
   (g) Submit recommendations to assist in the evaluation of employee safety suggestions.
   (h) Assess the effectiveness of the Department's efforts to meet the following mandates:
      1. Bloodborne pathogens (8 CCR 5193)

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2. Airborne transmissible diseases (8 CCR 5199)
3. Heat illness prevention (8 CCR 3395).

345.5 HAZARD ASSESSMENT

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards utilizing the applicable sections of the Hazard Assessment Checklist to ensure a thorough inspection. These checklists can be found at on the California Department of Industrial Relations website.

345.5.1 SUPPORT SERVICES SUPERVISOR INSPECTION DUTIES

The Personnel and Training Manager shall ensure an Identified Hazard and Correction Record (located on the California Department of Industrial Relations website) is completed for each inspection.

345.5.2 PATROL OFFICERS INSPECTION DUTIES

Officers are charged with daily vehicle inspection of an assigned vehicle and of personal protective equipment prior to working in the field. Officers shall complete an Identified Hazard and Correction Form if an unsafe condition cannot be immediately corrected. Officers should forward this report to their supervisor.

345.5.3 SUPERVISOR ASSESSMENT DUTIES

Supervisors should inform the Personnel and Training Manager when the following occurs:

- New substances, processes, procedures or equipment that present potential new hazards are introduced into the work environment.
- New, previously unidentified hazards are recognized.
- Occupational injuries and illnesses occur.
- New and/or permanent or intermittent workers are hired or reassigned to processes, operations or tasks for which a hazard evaluation has not been previously conducted.
- Whenever workplace conditions warrant an inspection.

The Personnel and Training Manager will take appropriate action to ensure the IIPP addresses potential hazards upon such notification.

345.6 ACCIDENT/EXPOSURE INVESTIGATIONS

Employees must report all injuries that are a result of a workplace accident and any hazardous substance exposure to a supervisor. 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 visit to the accident scene as soon as possible.
- An interview of the injured worker and witnesses.

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- An examination of the workplace for factors associated with the accident/exposure.
- Determination of the cause of the accident/exposure.
- Corrective action to prevent the accident/exposure from reoccurring.
- A record of the findings and corrective actions taken, using the Investigation/Corrective Action Report for located on the Department of Labor Relations website.

345.7 HAZARD CORRECTION

All employees should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices or procedures in a timely manner. Employees should make their reports to a supervisor (as a general rule, their own supervisor).

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner based on the severity of the hazards. 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 employees or property, supervisors should protect or remove all exposed workers from the area or item, except those necessary to correct the existing condition.

Employees who are necessary to correct the hazardous condition shall be provided with the necessary protection.

All significant actions taken and dates they are completed shall be documented on an Identified Hazard and Correction Form. This should be forwarded to the Personnel and Training Manager via the chain of command.

345.8 TRAINING AND INSTRUCTION

The Support Services Supervisor shall work with the Personnel and Training Administrator to ensure that all workers, including supervisors, are trained on general and job-specific, workplace safety and health practices. Training shall be provided as follows:

- To all new employees for those tasks that were not sufficiently covered by previous training from an academy or another training provider.
- To all workers given new job assignments for which training has not previously been provided.
- Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.
- Whenever the department is made aware of a new or previously unrecognized hazard.
- To supervisors to familiarize them with the safety and health hazards to which workers under their immediate direction and control may be exposed.
- To all workers with respect to hazards that are specific to each employee's job assignment.

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- An explanation of the department's IIPP, emergency action plan and fire prevention plan; measures for reporting any unsafe conditions, work practices and injuries; and informing a supervisor when additional instruction is needed.
- The use of appropriate clothing, including gloves, footwear and personal protective equipment.
- Information about chemical hazards to which employees could be exposed.
- The availability of toilet, hand-washing and drinking-water facilities.
- Provisions for medical services and first aid, including emergency procedures.
- Steps to prevent heat illness (8 CCR 3395).

345.9 RECORDKEEPING

The Personnel and Training Manager will do the following to implement and maintain IIPP records:

(a) Make available the Identified Hazards and Correction Record Form to document inspections, any unsafe condition or work practice, and actions taken to correct unsafe conditions and work practices.

(b) Make available the Investigation/Corrective Action Report (http://www.dir.ca.gov/DOSH/etools/09-031/InvestigationReport.pdf) to document individual incidents or accidents.

(c) Develop a Worker Training and Instruction Form to document the safety and health training of each employee. This form will include the employee's name or other identifier, training dates, type of training, and training providers.

(d) Retain inspection records and training documentation for a minimum of one year.

345.10 TRAINING SUBJECTS

The Personnel and Training Manager should ensure training is provided on the following topics:

- Driver safety
- Safe procedures for handling, cleaning and/or storing weapons
- Good housekeeping and fire prevention
- Back exercises/stretches and proper lifting techniques
- Lock-out/tag-out procedures
- Hazardous materials
- Building searches
- Slips and falls
- Ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods

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- Personal protective equipment
- Respiratory equipment
- Hazardous chemical exposures
- Hazard communication
- Physical hazards, such as heat/cold stress, noise, and ionizing and non-ionizing radiation
- Bloodborne pathogens and other biological hazards
- Other job-specific hazards

345.11 REVISIONS

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Department Use of Social Media

347.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Department is consistent with the department mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by department 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 (see the Investigation and Prosecution Policy).

347.1.1 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 website or social networking services

347.2 POLICY

The Hayward Police Department may use social media as a method of effectively informing the public about department services, issues, investigations and other relevant events.

Department members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all.

347.3 AUTHORIZED USERS

Only members authorized by the Chief of Police or the authorized designee may utilize social media on behalf of the Department. Authorized members shall use only department-approved equipment during the normal course of duties to post and monitor department-related social media, unless they are specifically authorized to do otherwise by their supervisors. Each Department division should have an authorized user.

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 social media by members who are not authorized to post should be made through the member's chain of command.

347.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the department mission and conforms to all department policies regarding the release of information may be posted.

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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 mission.

(e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.

(f) Traffic information.

(g) Press releases.

(h) Recruitment of personnel.

347.4.1 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 Public 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.

347.5 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 Hayward Police Department or its members.

(e) Any information that could compromise the safety and security of department operations, members of the Department, 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.

Any member who becomes aware of content on this department'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.

347.5.1 PUBLIC POSTING PROHIBITED

Department social media sites shall be designed and maintained to prevent posting of content by the public.

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The Department may provide a method for members of the public to contact department members directly.

347.6 MONITORING CONTENT

The Chief of Police or an authorized designee will appoint a supervisor to review periodically the use of department 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 Department's authorized representative on the City of Hayward Social Media Committee may serve as the reviewer.

347.7 RETENTION OF RECORDS

The Support Services Division Commander should ensure that public records generated in the process of social media use are retained in accordance with the records retention policy of the City of Hayward.

347.8 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 sites.

347.9 REVISIONS

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Gun Violence Restraining Orders

348.1 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).

348.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

348.1.2 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).

348.2 POLICY

It is the policy of the Hayward Police Department to petition and serve gun violence restraining orders in compliance with state law and to properly account for firearms and ammunition obtained by the Department pursuant to such orders.

348.3 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).

348.3.1 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 domestic disturbance where the residence is associated with a firearm registration or record.

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(b) When responding to any call or incident when a firearm is present or when one of the involved parties owns or possesses 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.

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 (see the Mental Illness Commitments Policy) (Penal Code § 18108).

348.4 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 Administrator 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.

348.4.1 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.

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(c) Forward a copy of the order to the Records Administrator for filing with the court and appropriate databases.

348.5 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.

348.6 RECORDS ADMINISTRATOR RESPONSIBILITIES

The Records Administrator 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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348.7 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.

348.8 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 returned to the restrained person upon the expiration of the order and in accordance with Penal Code § 18120 and the Property and Evidence Policy.

348.9 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.

(b) Developing and maintaining factors to consider when assessing the need to seek an order, including:

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.
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.

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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 Administrator 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.

(d) Coordinating with the Personnel and Training Administrator 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 (Penal Code § 18108).

348.10 RENEWAL OF GUN VIOLENCE RESTRAINING ORDERS

The Criminal Investigations Bureau supervisor is responsible for the review of a gun violence restraining order obtained by the [Department/Office] to determine if renewal should be requested within the time prescribed by law (Penal Code § 18190).

348.11 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).

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348.12 TRAINING

The Personnel and Training Administrator should ensure that members receive periodic training on the requirements of this policy (Penal Code § 18108).

348.13 REVISIONS

Enacted: May 25, 2018

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Revised: December 10, 2021

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Chapter 4 - Patrol Operations

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Patrol Function

400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the functions of the patrol unit of the Department to ensure intra-department cooperation and information sharing.

400.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.1.1, 41.1.2

400.1.2 FUNCTION

Officers will generally patrol in clearly marked vehicles, patrol assigned jurisdictional areas of Hayward Police Department, respond to calls for assistance, act as a deterrent to crime, enforce state and local laws and respond to emergencies 24 hours per day seven days per week.

Patrol will generally provide the following services within the limits of available resources:

(a) Patrol that is directed at the prevention of criminal acts, traffic violations and collisions, the maintenance of public order, and the discovery of hazardous situations or conditions.

(b) Crime prevention activities such as residential inspections, business inspections, community presentations, etc.

(c) Calls for service, both routine and emergency in nature.

(d) Investigation of both criminal and non-criminal acts.

(e) The apprehension of criminal offenders.

(f) Community Oriented Policing and Problem Solving activities such as citizen assists and individual citizen contacts of a positive nature.

(g) The sharing of information between Patrol and other divisions within the Department, as well as other outside governmental agencies.

(h) The application of resources to specific problems or situations within the community, which may be improved or resolved by Community Oriented Policing and problem solving strategies.

(i) Traffic direction and control.

400.1.3 TERRORISM

It is the goal of the Hayward Police Department to make every reasonable effort to accurately and appropriately gather and report any information that may relate to either foreign or domestic terrorism. Officers should advise a supervisor as soon as practicable of any activity believed to be terrorism related and should document such incidents with a written report or Field Interview (FI) card. The supervisor should ensure that all terrorism related reports and FIs are forwarded to the Terrorism Liaison Detective in a timely fashion.

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400.2 PATROL INFORMATION SHARING PROCEDURES

The following guidelines are intended to develop and maintain intra-department cooperation and information flow between the various divisions of the Hayward Police Department.

400.2.1 CRIME ANALYSIS UNIT

When available, the Crime Analysis Unit will be the central unit for information exchange. Criminal information and intelligence reports can be distributed to all divisions within the Department through daily and special bulletins via the Departmental Intranet.

400.2.2 CRIME REPORTS

A crime report shall be completed by any patrol officer who receives information of a crime occurring in Hayward's jurisdiction. The report will be processed and forwarded to the appropriate Bureau or Division for retention or follow-up investigation.

400.2.3 PATROL LINE-UPS

Members of the Patrol Division are encouraged to share information as much as possible with members of other Divisions and visa versa. All supervisors and/or inspectors/detectives/officers will be provided an opportunity to share information at the daily field operation line-up briefings as time permits.

400.2.4 BULLETIN BOARDS

Bulletin boards will be kept in the line-up room and the Criminal Investigations Bureau for display of suspect information, intelligence reports and photographs. New Departmental Orders and Directives will be made available for all employees and will be discussed at line-up and shift meetings. A copy of all orders/directives will be maintained electronically on the Departmental Intranet.

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.

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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 REVISIONS

Enacted: December 17, 2007

Revised: July 3, 2009

Revised: February 7, 2010

Revised: March 16, 2011

Revised: September 19, 2014

Revised: May 23, 2016

Revised: January 26, 2018

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Racial or Bias-Based Profiling

401.1 PURPOSE AND SCOPE

This policy provides guidance to [department/office] members that affirms the Hayward 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 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.2.9

401.1.2 DEFINITIONS

Definitions related to this policy include:

Bias-based policing - An inappropriate reliance on 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 affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4).

Criminal Profiling- Criminal profiling is a legitimate tool in the fight against crime. It is an investigative method by which officers identify suspicious behavior and take legal action consistent with the Fourth Amendment. Officers must have individualized suspicion based on observation of behavior, characteristics, activities and environment.

Racial Profiling- Penal Code § 13519.4 states that racial profiling is “the practice of detaining a person based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of a particular person being stopped.” This includes but is not limited to race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.

401.2 POLICY

The Hayward Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly and without discrimination toward any individual or group.

Race, ethnicity or nationality, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group shall not be used as the basis for providing differing levels of law enforcement service or the enforcement of the law.

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401.3 RACIAL- OR BIAS-BASED PROFILING PROHIBITED

Racial or bias-based profiling is strictly prohibited. However, nothing in this policy is intended to prohibit an officer from considering factors such as race or ethnicity in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description is limited to a specific race or group).

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.

(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 RESPONSIBILITY

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any known instances of racial- or bias-based profiling to a supervisor.

401.4.1 REASON FOR DETENTION

Officers detaining a person shall be prepared to articulate sufficient reasonable suspicion to justify a detention, independent of the individual's membership in a protected class.

To the extent that written documentation would otherwise be completed (e.g., arrest report, Field Interview (FI) card), the involved officer should include those facts giving rise to the officer's reasonable suspicion or probable cause for the detention, as applicable.

Nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

401.4.2 REPORTING OF STOPS

Unless an exception applies under 11 CCR 999.227, an officer conducting a stop of a person shall collect the data elements required by 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 Hayward Police Department is the primary agency, the Hayward 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 RESPONSIBILITY

Supervisors shall monitor those individuals under their command for any behavior that may conflict with the purpose of this policy and shall handle any alleged or observed violation of this policy in accordance with the Personnel Complaints Policy.

(a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.

(b) Supervisors should periodically review MAV recordings, MDC data and any other available resource used to document contact between officers and the public to ensure compliance with the policy.

1. Supervisors should document these periodic reviews.
2. Recordings that capture a potential instance of racial or bias-based profiling should be appropriately retained for administrative investigation purposes.

(c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.

(d) Supervisors should ensure that no retaliatory action is taken against any member of this department who discloses information concerning racial or bias-based profiling.

401.6 ADMINISTRATION

Each year, the Internal Affairs Manager shall review the efforts of the Department to prevent racial or bias-based profiling and submit an overview, including public concerns and complaints, to the Chief of Police.

This report should not contain any identifying information regarding any specific complaint, citizen or officer. It should be reviewed by the Chief of Police to identify any changes in training or operations that should be made to improve service.

Supervisors shall review the annual report and discuss the results with those they are assigned to supervise.

401.7 TRAINING

Training on racial- or bias-based profiling and review of this policy should be conducted as directed by the Personnel and Training Unit.

(a) All sworn members of this department will be scheduled to attend Peace Officer Standards and Training (POST) approved training on the subject of racial or bias-based profiling.

(b) Pending participation in such POST approved training and at all times, all members of this department are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.

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(c) Each sworn member of this department who received initial racial or bias-based profiling training will thereafter be required to complete an approved refresher training annually in order to keep current with changing racial, identity and cultural trends (Penal Code § 13519.4(i)); CALEA Standard 1.2.9.

401.8 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Internal Affairs 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 Administrator 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 Administrator for required annual reporting to the DOJ (Government Code § 12525.5) (See Records Bureau Policy).

401.9 REVISIONS

Enacted: December 17, 2007

Revised: July 3, 2009

Revised: August 13, 2010

Revised: April 9, 2013

Revised: August 1, 2014

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Line-up Training

402.1 PURPOSE AND SCOPE

Line-up training is generally conducted at the beginning of the assigned shift. It provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct it; however, other members of the Department may conduct it for training purposes with supervisor approval.

Line-up training should accomplish, at a minimum, the following basic tasks:

(a) Briefing 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 of changes in schedules and assignments.

(c) Notifying of news or changes in Department policies or practices.

(d) Reviewing recent incidents for training purposes.

(e) Providing training on a variety of subjects.

402.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 33.5.2

402.2 PREPARATION OF MATERIALS

The supervisor conducting Line-up Training 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.

402.3 REVISIONS

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Revised: July 3, 2009

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Crime and Disaster Scene Integrity

403.1 PURPOSE AND SCOPE

The protection and integrity of a crime scene is of the utmost importance for the successful apprehension of criminals and successful prosecution. The integrity of a disaster scene is equally as critical for the protection of life and property and investigation by proper authorities.

403.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 42.2.1, 61.2.3, 83.1.1

403.1.2 CRIME SCENE INVESTIGATION

For a detailed process for conducting crime scene investigations, see the Crime Scene Investigation Manual.

403.2 CRIME SCENE RESPONSIBILITY

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

403.2.1 FIRST RESPONDER CONSIDERATIONS

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

(a) Ensure no suspects are still in the area.

(b) Observe all conditions, events and remarks.

(c) Broadcast emergency information, including all requests for additional assistance.

(d) Evacuate the location as required.

(e) Provide first aid to injured parties if it can be done safely.

(f) Locate and identify witnesses.

(g) Maintain and protect the crime scene by securing the inner and outer perimeter if needed.

(h) Protect items of apparent evidentiary value.

(i) Arrange for the collection of evidence.

(j) Identify and interview the complainant, witnesses and suspects.

(k) Start a chronological log noting critical times and personnel allowed access.

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403.3 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).

403.4 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 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.

403.4.1 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.

403.5 REVISIONS

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Revised: August 13, 2010

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Special Response Unit

404.1 PURPOSE AND SCOPE

The Special Response Unit (SRU) is comprised of two specialized teams: the Crisis Negotiation Team (CNT) and the Special Weapons and Tactics Team (SWAT). The unit has been established to provide specialized support in handling critical field operations where intense negotiations and/or special tactical deployment methods beyond the capacity of field officers appear to be necessary. This policy is written to comply with the guidelines established in the Attorney General's Commission on Special Weapons and Tactics Report (September 2002) and the POST 2005 SWAT Operational Guidelines and Standardized Training Recommendations (Penal Code § 13514.1).

404.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.2.5, 33.6.1, 33.6.2, 46.2.2, 46.2.3, 46.2.4, 46.1.10

404.1.2 ADMINISTRATIVE AND OPERATIONAL POLICY

The Policy Manual sections pertaining to the Special Response Unit are divided into Administrative and Operational Policy and Procedures. Since situations that necessitate the need for such a police response vary greatly from incident to incident and such events often demand on-the-scene evaluation, the Operational Policy outlined in this manual section serves as a guideline to Department personnel allowing for appropriate on scene decision making as required. The Administrative Procedures, however, are more restrictive and few exceptions should be taken.

404.1.3 SWAT TEAM DEFINED

A SWAT team is a designated unit of law enforcement officers that is specifically trained and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex, or unusual that they may exceed the capabilities of first responders or investigative units including, but not limited to, hostage taking, barricaded suspects, snipers, terrorist acts and other high-risk incidents. As a matter of Department policy, such a unit may also be used to serve high-risk warrants, both search and arrest, where public and officer safety issues warrant the use of such a unit.

404.2 LEVELS OF CAPABILITY/TRAINING

404.2.1 LEVEL I

A Level I SWAT team is a basic team capable of providing containment and intervention with critical incidents that exceed the training and resources available to line-level officers. This does not include ad hoc teams of officers that are formed around a specific mission, detail or incident (e.g. active shooter response). Generally 5 percent of the basic team's on-duty time should be devoted to training.

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404.2.2 LEVEL II
A Level II, Intermediate level SWAT team is capable of providing containment and intervention. Additionally, these teams possess tactical capabilities above the Level I teams. These teams may or may not work together on a daily basis, but are intended to respond to incidents as a team. At least 5 percent of their on-duty time should be devoted to training with supplemental training for tactical capabilities above the Level I team.

404.2.3 LEVEL III
A Level III, Advanced level SWAT team is a SWAT team whose personnel function as a full-time unit. Generally 25 percent of their on-duty time is devoted to training. Level III teams operate in accordance with contemporary best practices. Such units possess both skills and equipment to utilize tactics beyond the capabilities of Level I and Level II teams.

404.3 POLICY
It shall be the policy of this Department to maintain a SWAT team and to provide the equipment, manpower, and training necessary to maintain a SWAT team. The SWAT team should develop sufficient resources to perform three basic operational functions:

(a) Command and Control.

(b) Containment.

(c) Entry/Apprehension/Rescue.

It is understood it is difficult to categorize specific capabilities for critical incidents. Training needs may vary based on the experience level of the team personnel, team administrators and potential incident commanders. Nothing in this policy shall prohibit individual teams from responding to a situation that exceeds their training levels due to the exigency of the circumstances. The preservation of innocent human life is paramount.

404.3.1 POLICY CONSIDERATIONS
A needs assessment should be conducted to determine the type and extent of SWAT missions and operations appropriate to this Department. The assessment should consider the team's capabilities and limitations and should be reviewed annually by the SWAT Commander or his/her designee.

404.3.2 ORGANIZATIONAL PROCEDURES
This Department shall develop a separate written set of organizational procedures which should address, at minimum, the following:

(a) Locally identified specific missions the team is capable of performing.

(b) Team organization and function.

(c) Personnel selection and retention criteria.

(d) Training and required competencies.

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(e) Procedures for activation and deployment.

(f) Command and control issues, including a clearly defined command structure.

(g) Multi-agency response.

(h) Out-of-jurisdiction response.

(i) Specialized functions and supporting resources.

404.3.3 OPERATIONAL PROCEDURES

This Department shall develop a separate written set of operational procedures in accordance with the determination of their level of capability, using sound risk reduction practices. The operational procedures should be patterned after the National Tactical Officers Association Suggested SWAT Best Practices. Because such procedures are specific to SRU members and will outline tactical and officer safety issues, they are not included within this policy. The operational procedures should include, at minimum, the following:

(a) Designated personnel responsible for developing an operational or tactical plan prior to, and/or during SWAT operations (time permitting).

1. All SWAT team members should have an understanding of operational planning.

2. SWAT team training should consider planning for both spontaneous and planned events.

3. SWAT teams should incorporate medical emergency contingency planning as part of the SWAT operational plan.

(b) Plans for mission briefings conducted prior to an operation, unless circumstances require immediate deployment.

1. When possible, briefings should include the specialized units and supporting resources.

(c) Protocols for a sustained operation should be developed which may include relief, rotation of personnel and augmentation of resources.

(d) A generic checklist to be worked through prior to initiating a tactical action as a means of conducting a threat assessment to determine the appropriate response and resources necessary, including the use of SWAT.

(e) The appropriate role for a trained negotiator.

(f) A standard method of determining whether or not a warrant should be regarded as high-risk.

(g) A method for deciding how best to serve a high-risk warrant with all reasonably foreseeable alternatives being reviewed in accordance with risk/benefit criteria prior to selecting the method of response.

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(h) Post incident scene management including:

1. Documentation of the incident.
2. Transition to investigations and/or other units.
3. Debriefing after every deployment of the SWAT team.
   (a) After-action team debriefing provides evaluation and analysis of critical incidents and affords the opportunity for individual and team assessments, helps to identify training needs, and reinforces sound risk management practices.
   (b) Such debriefing should not be conducted until involved officers have had the opportunity to individually complete necessary reports or provide formal statements.
   (c) In order to maintain candor and a meaningful exchange, debriefing will generally not be recorded.
   (d) When appropriate, debriefing should include specialized units and resources.

(i) Sound risk management analysis.

(j) Standardization of equipment deployed.

404.4 TRAINING NEEDS AND POLICY ASSESSMENT

The SWAT/CNT Commander shall conduct an annual SWAT Training needs assessment and review of policy to ensure that training is conducted within team capabilities, Department policy and the training guidelines as established by POST (11 CCR § 1084). This annual review shall cover all practices and policies as they relate to addressing active threats by members of the Department.

404.4.1 INITIAL TRAINING

SWAT team operators and SWAT supervisors/team leaders should not be deployed until successful completion of the POST-certified Basic SWAT Course or its equivalent.

(a) To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content (topics) meet or exceed Department requirements or POST standardized training recommendations.

(b) SWAT supervisors are responsible for ensuring on-the-job training of members, when and if applicable.

404.4.2 UPDATED TRAINING

Appropriate team training for the specialized SWAT functions and other supporting resources should be completed prior to full deployment of the team.

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SWAT team operators and SWAT supervisors/team leaders should complete update or refresher training as certified by POST, or its equivalent, every 24 months.

404.4.3 SUPERVISION AND MANAGEMENT TRAINING
Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level to ensure personnel who provide active oversight at the scene of SWAT operations understand the purpose and capabilities of the teams.

Command personnel who may assume incident command responsibilities should attend SWAT or Critical Incident Commander course or its equivalent. SWAT command personnel should attend a POSTcertified SWAT commander or tactical commander course, or its equivalent.

404.4.4 SWAT ONGOING TRAINING
Training shall be coordinated by the SRU Commander. The SRU Commander may conduct monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training shall consist of the following:

(a) Each SWAT member shall perform a physical fitness test twice each year. A minimum qualifying score must be attained by each team member.

(b) Any SWAT team member failing to attain the minimum physical fitness qualification score will be notified of the requirement to retest and attain a qualifying score. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.

(c) Those members who are on vacation, ill, or are on light duty status with a doctor's note of approval on the test date, shall be responsible for reporting to a team supervisor and taking the test within 30 days of their return to regular duty. Any member, who fails to arrange for and perform the physical fitness test within the 30-day period, shall be considered as having failed to attain a qualifying score for that test period.

(d) Quarterly, each SWAT team member shall perform the mandatory SWAT handgun qualification course. The qualification course shall consist of the SWAT Basic Drill for the handgun. Failure to qualify will require that officer to seek remedial training from a team range master approved by the SRU Commander. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.

(e) Each SWAT team member shall complete the quarterly SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT operations. Failure to qualify will require the team member to seek remedial training from the Rangemaster who has been approved by the SRU commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may

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result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

404.4.5 TRAINING SAFETY
Use of a designated safety officer should be considered for all tactical training.

404.4.6 SCENARIO BASED TRAINING
SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

404.4.7 TRAINING DOCUMENTATION
Individual and team training shall be documented and records maintained by the Personnel and Training Unit. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file shall be maintained with documentation and records of all team training.

404.5 UNIFORMS, EQUIPMENT, AND FIREARMS

404.5.1 UNIFORMS
SWAT teams from this agency should wear uniforms that clearly identify team members as law enforcement officers. It is recognized that certain tactical conditions may require covert movement. Attire may be selected appropriate to the specific mission.

404.5.2 EQUIPMENT
SWAT teams from this agency should be adequately equipped to meet the specific mission(s) identified by the agency.

404.5.3 FIREARMS
Weapons and equipment used by SWAT, the specialized units, and the supporting resources should be agency-issued or approved, including any modifications, additions, or attachments.

404.5.4 OPERATIONAL READINESS INSPECTIONS
The SRU Commander shall appoint a SRU supervisor to perform operational readiness inspections of all unit equipment at least quarterly. The result of the inspection will be forwarded to the SRU Commander in writing. The inspection will include personal equipment issued to members of the unit, operational equipment maintained in the SRU facility and equipment maintained or used in SRU vehicles.

404.6 MANAGEMENT/SUPERVISION OF SPECIAL RESPONSE UNIT
The Commander of the SRU shall be selected by the Chief of Police upon recommendation of staff.

404.6.1 PRIMARY UNIT MANAGER
Under the direction of the Chief of Police, through the Special Operations Division Commander, the Special Response Unit shall be managed by a sworn officer at the rank of lieutenant.

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404.6.2 TEAM SUPERVISORS

The Negotiation Team and each Special Weapons and Tactics Team may be supervised by a sergeant.

The team supervisors shall be selected by the Chief of Police upon specific recommendation by staff and the SRU Commander.

The following represent the supervisor responsibilities for the Special Response Unit.

(a) The Negotiation Team supervisor's primary responsibility is to supervise the operations of the Negotiation Team which will include deployment, training, first line participation, and other duties as directed by the SRU Commander.

(b) The Special Weapons and Tactics Team supervisor's primary responsibility is to supervise the operations of the SWAT Team, which will include deployment, training, first line participation, and other duties as directed by the SRU Commander.

404.7 CRISIS NEGOTIATION TEAM ADMINISTRATIVE PROCEDURES

The Crisis Negotiation Team has been established to provide skilled verbal communicators who may be utilized to attempt to de-escalate and effect surrender in critical situations where suspects have taken hostages, barricaded themselves, or have suicidal tendencies.

The following procedures serve as directives for the administrative operation of the Crisis Negotiation Team.

404.7.1 SELECTION OF PERSONNEL

Interested sworn personnel, who are off probation, shall submit a change of assignment request to their appropriate Division Commander. A copy will be forwarded to the SRU Commander and the Crisis Negotiation Team supervisor. Qualified applicants will then be invited to an oral interview. The oral board will consist of the SRU Commander or his/her designee, the Crisis Negotiation Team supervisor, and a third person to be selected by the two. Interested personnel shall be evaluated by the following criteria:

(a) Recognized competence and ability as evidenced by performance.

(b) Demonstrated good judgment and understanding of critical role of negotiator and negotiation process.

(c) Effective communication skills to ensure success as a negotiator.

(d) Special skills, training, or appropriate education as it pertains to the assignment.

(e) Commitment to the unit, realizing that the assignment may necessitate unusual working hours, conditions, and training obligations.

The oral board shall submit a list of successful applicants, with its recommendations, to staff for final selection.

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404.7.2 TRAINING OF NEGOTIATORS

Those officers selected as members of the Negotiation Team should attend the Basic Negotiators Course as approved by the Commission on Peace Officer Standards and Training (POST) prior to primary use in an actual crisis situation. Untrained officers may be used in a support or training capacity. Additional training will be coordinated by the team supervisor.

A minimum of one training day per quarter will be required to provide the opportunity for role playing and situational training necessary to maintain proper skills. This will be coordinated by the team supervisor.

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the team supervisor. Performance and efficiency levels, established by the team supervisor, will be met and maintained by all team members. Any member of the Negotiation Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the unit.

404.8 SWAT TEAM ADMINISTRATIVE PROCEDURES

The Special Weapons and Tactics (SWAT) Team was established to provide a skilled and trained team which may be deployed during events requiring specialized tactics in such situations as cases where suspects have taken hostages and/or barricaded themselves as well as prolonged or predictable situations in which persons armed or suspected of being armed pose a danger to themselves or others.

The following procedures serve as directives for the administrative operation of the Special Weapons and Tactics Team.

404.8.1 SELECTION OF PERSONNEL

Interested sworn personnel who are off probation shall submit a change of assignment request to their appropriate Division Commander, a copy of which will be forwarded to the SRU Commander. Those qualifying applicants will then be invited to participate in the testing process. The order of the tests will be given at the discretion of the SRU Commander. The testing process will consist of an oral board, physical agility, SWAT basic handgun, and team evaluation.

(a) Oral board: The oral board will consist of personnel selected by the SRU Commander. Applicants will be evaluated by the following criteria:

1. Recognized competence and ability as evidenced by performance;
2. Demonstrated good judgment and understanding of critical role of SWAT member;
3. Special skills, training, or appropriate education as it pertains to this assignment; and,
4. Commitment to the unit, realizing that the additional assignment may necessitate unusual working hours, conditions, and training obligations.

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(b) Physical agility: The physical agility test is designed to determine the physical capabilities of the applicant as it relates to performance of SWATrelated duties. The test and scoring procedure will be established by the SRU Commander. A minimum qualifying score shall be attained by the applicant to be considered for the position.

(c) SWAT basic handgun: Candidates will be invited to shoot the SWAT Basic Drill for the handgun. A minimum qualifying score of 90% must be attained to qualify.

(d) Team evaluation: Current team members will evaluate each candidate on his or her field tactical skills, teamwork, ability to work under stress, communication skills, judgment, and any special skills that could benefit the team.

(e) A list of successful applicants shall be submitted to staff, by the SRU Commander, with recommendations for final selection.

404.8.2 TEAM EVALUATION

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the SRU Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT Team members. Any member of the SWAT Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.

404.9 OPERATION GUIDELINES FOR SPECIAL RESPONSE UNIT

The following procedures serve as guidelines for the operational deployment of the Special Response Unit. Generally, the Special Weapons and Tactics Team and the Crisis Negotiation Team will be activated together. It is recognized, however, that a tactical team may be used in a situation not requiring the physical presence of the Crisis Negotiation Team such as warrant service operations. This shall be at the discretion of the SRU Commander.

404.9.1 ON-SCENE DETERMINATION

The supervisor in charge on the scene of a particular event will assess whether the Special Response Unit is to respond to the scene. Upon final determination by the Watch Commander, he/she will notify the SRU Commander.

404.9.2 APPROPRIATE SITUATIONS FOR USE OF SPECIAL RESPONSE UNIT

The following are examples of incidents which may result in the activation of the Special Response Unit:

(a) Barricaded suspects who refuse an order to surrender.

(b) Incidents where hostages are taken.

(c) Cases of suicide threats.

(d) Arrests of dangerous persons.

(e) Any situation that could enhance the ability to preserve life, maintain social order, and ensure the protection of property.

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404.9.3 OUTSIDE AGENCY REQUESTS

Requests by field personnel for assistance from outside agency crisis units must be approved by the Watch Commander. Deployment of the Hayward Police Department Special Response Unit in response to requests by other agencies must be authorized by a Division Commander.

404.9.4 MULTI-JURISDICTIONAL SWAT OPERATIONS

The SWAT team, including relevant specialized units and supporting resources, should develop protocols, agreements, MOU's, or working relationships to support multi-jurisdictional or regional responses.

(a) If it is anticipated that multi-jurisdictional SWAT operations will regularly be conducted; SWAT multi-agency and multi-disciplinary joint training exercises are encouraged.

(b) Members of the Hayward Police Department SWAT team shall operate under the policies, procedures and command of the Hayward Police Department when working in a multi-agency situation.

404.9.5 MOBILIZATION OF SPECIAL RESPONSE UNIT

The On-Scene supervisor shall make a request to the Watch Commander for the Special Response Unit. The Watch Commander shall then notify the SRU Commander. If unavailable, a team supervisor shall be notified. A current mobilization list, maintained by the SRU Commander, shall be maintained on the Departments intranet. The Watch Commander will then notify the Patrol Division Commander as soon as practical.

The Watch Commander should advise the SRU Commander with as much of the following information which is available at the time:

(a) The number of suspects, known weapons and resources.

(b) If the suspect is in control of hostages.

(c) If the suspect is barricaded.

(d) The type of crime involved.

(e) If the suspect has threatened or attempted suicide.

(f) The location of the command post and a safe approach to it.

(g) The extent of any perimeter and the number of officers involved.

(h) Any other important facts critical to the immediate situation and whether the suspect has refused an order to surrender.

The SRU Commander, supervisor or designee shall then call selected officers to respond.

404.9.6 FIELD UNIT RESPONSIBILITIES

While waiting for the Special Response Unit, field personnel should, if safe, practical and sufficient resources exist:

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(a) Establish an inner and outer perimeter.

(b) Establish a command post outside of the inner perimeter.

(c) Establish an arrest/response team. The team actions may include:

1. Securing any subject or suspect who may surrender.
2. Taking action to mitigate a deadly threat or behavior.

(d) Evacuate any injured persons or citizens in the zone of danger.

(e) Attempt to establish preliminary communication with the suspect. Once the SRU has arrived, all negotiations should generally be halted to allow the negotiators and SWAT time to set up.

(f) Be prepared to brief the SRU Commander on the situation.

(g) Plan for, and stage, anticipated resources.

404.9.7 ON-SCENE COMMAND RESPONSIBILITIES

Upon arrival of the Special Response Unit at the scene, the Incident Commander shall brief the SRU Commander and team supervisors about the situation. Upon review, it will be the Incident Commander's decision, with input from the SRU Commander, whether to deploy the Special Response Unit to supplement other operational components. Once the Incident Commander authorizes deployment, the SRU Commander will be responsible for the tactical portion of the operation.

The Incident Commander shall continue supervision of the command post operation, outer perimeter security, and support for the Special Response Unit. The Incident Commander and the SRU Commander (or his or her designee) shall maintain coordination, cooperation and communications between tactical teams and other operational components at all times.

404.9.8 COMMUNICATION WITH SPECIAL RESPONSE UNIT PERSONNEL

All of those persons who are non-Special Response Unit personnel should refrain from any non-emergency contact or interference with any member of the unit during active negotiations. Operations require the utmost in concentration by involved personnel and, as a result, no one should interrupt or communicate with Special Team personnel directly. All non-emergency communications shall be channeled through the Negotiation Team Sergeant or his or her designee.

404.10 REVISIONS

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Special Response Unit

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Ride-Along Policy

405.1 PURPOSE AND SCOPE

The Ride-Along Program provides an opportunity for members of the public 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 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

405.1.2 ELIGIBILITY

The Hayward Police Department Ride-Along Program is offered to residents, students and those employed within the City. Every attempt will be made to accommodate interested persons however any applicant may be disqualified without cause.

The following factors may be considered in disqualifying an applicant and are not limited to:

- Being under 16 years of age
- Prior criminal history
- Pending criminal action
- Pending claim or lawsuit against the Department or the City
- Denial by any supervisor

405.1.3 AVAILABILITY

The Ride-along Program is available on most days of the week, with approval of the Watch Commander.

405.2 PROCEDURE TO REQUEST A RIDE-ALONG

Interested persons will complete a ride-along application and sign a Declaration of Assumption of Risk and Release of Liability waiver form. Ride-along applicants must present a valid government issued identification document. If the participant is under 18 years of age, a parent/guardian must be present to complete the Ride-along form and sign a Declaration of Assumption of Risk and Release of Liability waiver form.

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.

405.2.1 PROGRAM REQUIREMENTS

Once approved, members of the public will be allowed to ride no more than once per calendar year. An exception may apply to police applicant's, and others with approval of the Watch Commander. An effort will be made to ensure that no more than one ride-along is scheduled during any given time period. Normally, no more than one ride-along will be allowed in an officer's vehicle at a given time.

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405.2.2 SUITABLE ATTIRE
Any person approved to ride along is required to be suitably dressed in "business casual" attire. Shirts without collars, T-shirts, tank tops, sweat shirts, jeans, shorts, short skirts, halter tops, high heel shoes, baseball caps, beanies, and similar attire are not permissible. The Watch Commander or field supervisor shall 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 Hayward Police Department) (CLETS Policies, Practices and Procedures Manual § 1.6.1.F.2.).

405.2.5 RELATIONSHIP BETWEEN RIDE-ALONG AND EMPLOYEES
No officer shall allow any member of their family or any other person with whom they have a personal relationship including cohabitation, dating, or other intimate relationship beyond mere friendship to ride in the same police vehicle as the employee. In all cases where the ride-along has a relationship described above, the ride-along shall be assigned to a different officer.

405.3 PROGRAM COORDINATION
The Ride-Along Program shall be coordinated by a designated employee who is responsible for processing applications and scheduling ride-alongs. Ride-alongs may also be scheduled by the Personnel and Training Bureau for individuals applying for employment with the Department. Watch Commanders are also vested with the authority to approve ride-alongs on their respective shifts.

405.4 WATCH COMMANDER RESPONSIBILITY
The Watch Commander shall ensure that all persons participating in the Ride-Along program have completed an application form and that a signed waiver of liability has been obtained. No person shall be allowed to participate as a ride-along without having executed the Declaration of Assumption of Risk and Release of Liability. Executed Declarations of Assumption of Risk and Release of Liability shall be forwarded to and maintained by the Personnel and Training Bureau. Additionally, Watch Commanders may impose any additional reasonable conditions on any ride-along which the Watch Commander deems appropriate.

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405.5 OFFICER'S RESPONSIBILITY

The officer shall confirm with the Watch Commander that the required Declaration of Assumption of Risk and Release of Liability has been completed before allowing any ride-along to enter a police vehicle. 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 this location. The ride-along may be continued or terminated at this time.

405.6 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 person.

(f) Under no circumstance shall a civilian ride-along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person.

(g) No ride-along, regardless of Peace Officer status, shall be permitted to carry a firearm without the Watch Commander's knowledge and approval.

(h) Ride-alongs may not carry or use any audio recording device, any video recording device, or other camera.

(i) Ride-alongs may carry cellular telephone, but they shall not make or receive calls during the ride-along except in an emergency.

405.7 OTHER OBSERVERS

Members of the public scheduled for or approved to observe other operations of police employees such as communications operators, community service officers, or jail operations shall complete a Ride-Along application and execute a Declaration of Assumption of Risk and Release of Liability.

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Observers shall be subject to the same criminal history check as those desiring to ride-along with patrol officers.

All the provisions of this policy shall apply to observers, except those which by their very nature are not applicable.

405.8 ADDITIONAL PROGRAM GUIDELINES

Additional rules, regulations, and guidelines for the Ride-Along Program may be adopted from time to time and shall be included in the Ride-Along Program application packet.

405.9 REVISIONS

Enacted: December 17, 2007

Revised: February 18, 2009

Revised: July 3, 2009

Revised: May 23, 2016

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Hazardous Material Response

406.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees resulting from their exposure. To comply with 8 CCR § 5194, the following is to be the policy of this [department/office].

406.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.2.4, 61.2.2, 61.2.3

406.1.2 HAZARDOUS MATERIAL DEFINED

A hazardous material is a substance which by its nature, containment and reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

406.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill, or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

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

(a) Attempt to identify the type of hazardous substance. (Identification can be determined by placard, driver's manifest or statements from the person transporting).

(b) Notify the Fire Department.

(c) Provide first-aid for injured parties if it can be done safely and without contamination.

(d) Begin evacuation of the immediate area and surrounding areas depending on the substance. Voluntary evacuation should be considered; however depending on the substance, mandatory evacuation may be necessary.

(e) Notify the local Health Authority. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 10215).

(f) Notify the Department of Toxic Substances Control. This is mandatory when an officer comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety § 25354.5).

406.3 REPORTING EXPOSURE(S)

[Department/Office] personnel 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 employee in an employee memorandum that shall be forwarded via chain of command to the

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Commanding Officer. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.

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.

406.3.1 SUPERVISOR RESPONSIBILITY
When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of employees, safety equipment is available through supervisory personnel. Safety items not maintained by the Department will be obtained through the Fire Department.

406.4 REVISIONS

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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 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.2.4, 46.1.2

407.1.2 DEFINITIONS

Definitions related to this policy include:

Hostage - A person held by one party in a conflict as security so that specified terms will be met by the opposing party.

Hostage Situation - An incident where it is reasonable to believe a person is unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.

Barricaded Suspect - A person who takes a position of cover or concealment or maintains a position in a structure and who resists capture by law enforcement personnel. A barricaded suspect may be armed or suspected of being armed.

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.

407.2 POLICY

It is the policy of the Hayward 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-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise

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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, 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:

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(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

(c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

(d) Provide responding emergency personnel with a safe arrival route to the location.

(e) Evacuate non-injured persons in the immediate threat area if it is reasonably safe to do so.

(f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.

(g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.

(h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information. If appropriate, advise people to shelter in place.

(i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers, additional public safety departments, the Public Information Officer and other resources.

(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.

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(c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).

(d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.

(e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

(f) Provide responding emergency personnel with a safe arrival route to the location.

(g) Evacuate non-injured persons in the immediate threat area if it is reasonably safe to do so.

(h) Coordinate pursuit or surveillance vehicles and control of travel routes.

(i) Attempt or obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.

(j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.

(k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information. If appropriate, advise people to shelter in place.

(l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers, additional public safety departments, the Public Information Officer and other resources.

(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 SRU response if appropriate and apprising the SRU 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.

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(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 and 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. The supervisor must ensure the Department obtains a court order, in accordance with Public Utilities Code §7908, prior to requesting the interruption. In the case of an extreme emergency when there is insufficient time to obtain an order prior to the request, application for the order must be submitted within six hours after initiating the interruption (Public Utilities Code § 7908).

(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 Communications.

(i) Identify a media staging area outside the outer perimeter and have the department Press Information Officer or a designated temporary media representative provide media access in accordance with the News Media Relations Policy. If appropriate, make public notifications for awareness and safety in accordance with Public Alerts 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 SPECIAL RESPONSE UNIT RESPONSIBILITIES

The Incident Commander will decide, with input from the SRU Commander, whether to deploy the SRU during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the SRU 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 SRU. The Incident Commander and the SRU 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.

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407.8 REVISIONS

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Response to Critical Incidents and Planned Operations

408.1 PURPOSE AND SCOPE

This procedure establishes criteria for assessing risk factors at critical incidents and assessing potential risk factors for planned operations. The Risk Assessment Matrix form provides an objective means for evaluating the need for tactical resources. This evaluation will determine if the mission requires consultation with Special Response Unit Tactical Leaders or if Special Response Unit resources are required to respond

408.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 46.1.1

408.1.2 PROCEDURE

Supervisors, Watch Commanders and other Command Officers will use the following procedures when responding to Critical Incidents or planning an operation involving a search warrant or arrest warrant.

The Special Response Unit Commander shall be the tasked with planning a response to critical incidents. The Special Response Unit Commander shall be the principal planner and advisor on critical incidents to the Chief of Police.

408.2 CRITICAL INCIDENTS

When confronted with a critical incident and as soon as practical, the Incident Commander shall evaluate the situation by using the Risk Assessment Matrix form.(see attached). This evaluation consists of assessing the situation and then answering “yes” or “no” to the threat items on the form. Should an incident contain a “yes” answer to one or more threats listed in questions 1 through 5 (HIGHEST RISK), the Special Response Unit should be tasked with planning a response to the critical incident. In addition, if an incident contains a “yes” answer to questions 6, 7, or three of the threats listed in questions 8 through 16 (MODERATE-HIGH RISK), the SRU shall be consulted. SRU (Commander or Team Leaders) leadership will assess the situation and assist the handling unit in determining whether or not SRU will be utilized for the incident. All incidents that fall below the MODERATE-HIGH RISK classification will be deemed LOW RISK absent any extenuating circumstances or other pertinent information. Threats may increase or decrease as the incident evolves. Therefore, the evaluation of the incident should be ongoing. Special Response Unit Leaders are available to assist the Incident Commander in any critical incident regardless of the risk factor and should be consulted before activating a call in.

408.2.1 SPECIAL RESPONSE UNIT LEADERS

The Special Response Unit Commander, Assistant Commander, and Team Leaders are designated for consultation during a critical incident or mission planning. The managers, supervisor's or officers assigned to these positions can be located by accessing the SRU

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search feature in the Department's New World CAD system. Communications has access to this information.

408.2.2 DEFINITIONS AND DESCRIPTION-CRITICAL INCIDENT FORM

The Risk Assessment Matrix form is based upon facts and circumstances collected during the critical incident or investigation and the criminal history of the suspect(s).

Threat Conditions

1. Heavily barricaded location: Location fortified with sally-ports, internal fortifications, or multiple gates.

2. Superior armament: Automatic weapons, assault weapons, high powered rifles, scoped rifles, or ballistic protection (body armor, building fortification) are believed to be on premises.

3. Armed assault on a peace officer: Suspect(s) wanted for an armed assault on a peace officer.

4. Firearm used in the commission of the crime: Suspect(s) discharged a firearm during the commission of the crime and may be armed.

5. Hostages: Suspect(s) is holding known hostages at the location.

6. Military or LE background: Suspect(s) have current or prior military / LE training.

7. Firearm displayed: Suspect(s) displayed a firearm during the commission of the crime and may be armed.

8. Violent criminal history: Suspect(s) have a criminal history involving armed violence against citizens or peace officers.

9. Current criminal offense: Suspect(s) committed a felonious violent crime against a person.

10. Threats: Suspect(s) have made criminal threats against peace officers either verbally or by the suspect’s actions.

11. Gang association: Suspect(s) have a history of criminal gang membership or association.

12. Handguns: Handguns are believed to be at the location or suspect has immediate access to.

13. Breaching: Location has security screens or doors windows to slow or prevent entry into the location.

14. Dogs: Suspect has a dog(s) present which would alert the suspect or present a threat to police officers.

15. Surveillance: Suspect has cameras or a police scanner which would alert the suspect to officers’ approach or compromise radio communications.

16. Mental condition: Suspect is a known drug user of stimulants and is likely to be under the influence or the suspect is a danger to others.

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408.3 PLANNED OPERATION

Officers, Detectives, and Supervisors who are planning an operation which involves a search warrant, arrest warrant, or probation/parole search shall evaluate the potential risks of the operation by using the Risk Assessment Matrix form. The supervisor of the operation or their designated case agent is responsible for this evaluation. Special Response Unit leaders are available for consultation for all planned operations regardless of the overall risk factor and should be contacted before activating the unit.

408.4 RISK ASSESSMENT MATRIX FORMS

Risk Assessment Matrix forms shall be maintained and utilized by Field Supervisors, Watch Commander's, and Special Response Unit leaders. The factors listed in this policy and on the Risk Assessment Matrix form shall be considered prior to activation of the Special Response Unit.

408.5 DECONFLICTION SYSTEM

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 conductin operations in close proximity or time or are investigating the same individuals, groups or locations.

The Hayward Police Department participates in a regional event deconfliction system to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts. The Department utilizes the deconfliction system in planned operations.

408.5.1 DEFINITION

Planned Operations : Operations, including service of search warrants, arrest warrants, probation/parole searches, and sting operations, that are likely to present higher risks than are commonly faced by officers on a daily basis, including, but not limited to suspects in fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

408.5.2 CONTACT INFORMATION FOR DECONFLICTION SYSTEM

The deconfliction system used by the Department is Western States Information Network (WSIN). WSIN is one of six regional centers run by the Regional Information Sharing Systems Program (RISS), a Department of Justice program. WSIN can be contacted by phone at (916) 263-1166 or by fax at (916) 263-1439.

408.5.3 AUTHORIZED USE OF DECONFLICTION SYSTEM

An officer is authorized to use WISN after he or she submits to WSIN a completed WSIN Security Control Card signed by his or her supervisor.

408.5.4 AUTHORIZED INFORMATION ENTRY INTO DECONFLICTION SYSTEM

The information entered into WSIN may include name(s), address, vehicle information and phone numbers. When possible, before conductin an operation, the operations lead will contact WSIN

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and provide a location address to reducte the possibility of conflict with another law enforcement agency.

If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding with the operation.

408.5.5 INTERNAL DISTRIBUTION OF DECONFLICTION INFORMATION
The internal distribution of event deconfliction information occurs in the Planned Operation Risk Analysis. The Planned Operation Risk Analysis is guided by the Planned Risk Analysis form. The form is completed by the supervisor of the operation or his/her designated agent. See above section Planned Operation.

408.6 RISK ASSESSMENT MATRIX

	FACTS (check YES or NO for each of the sixteen below listed catagories)	YES	NO
1	Heavily barricaded location (i.e. sally-port, internal fortifications, multiple gates, etc)?		
2	Superior Armament: Automatic weapons, high powered rifles, scoped rifles or ballistic protection (body armor, building fortification) are believed on premises?		
3	Suspect wanted for armed assault on a peace officer?		
4	Suspect discharged a firearm during the commision of any crime and may be armed?		
5	Hostage believed to be at location?		
6	Military or LE background: Suspect has prior or current military/LE training?		

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7	Suspect displayed a firearm during the commision of any crime and may be armed?		
8	Violent criminal history (armed violence against public or officers)?		
9	Is the current criminal offense a felonious violent crime against a person?		
10	Threats by suspect against officers?		
11	Suspect has history of criminal street gang association/membership (observed by LE, FIs, police reports, documented, etc.)?		
12	Handguns at the location (C.R.I. information, probably cause to believe, etc.)?		
13	Security screens on doors and/or windows?		
14	Guard dogs at location?		
15	Counter surveillance (cameras, police scanners, etc.)?		
16	Suspect Mental Condition (under the influence of durgs/ alcohol, 5150)?		

408.6.1 DECISION MATRIX

	Decision Matrix

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	The Special Response Unit (SRU) should be requested when a tactical operation indicates the necessity for its assistance. When preparing the operation plan, the above checklist shall be incorporated into the plan and shall be used to evaluate the need for assistance from SRU. Should an operation contain a "YES" answer to one or more threats listed in questions 1 through 5 (HIGHEST RISK), service by SRU should be required. In addition, of an operation/incident contains a 'YES" to question 6, 7 or three of the hazards listed in questions 8 through 16 (MODERATE - HIGH RISK) SRU shall be consulted. SRU (Commander or Team Leaders) leadership will assess the situation and assist the handling unite in determining whether or not SRU will be u tilized for the operation. All operations that lfall below the MODERATE-HIGH RISK classification will be deemed LOW RISK absent any extenuating circumstances or other pertinent information. Any number of circumstances may indicate that SRU should be utilized. Investigation and patrol supervisors are encouraged to contact SRU leadership whenever questions arise in evaluation service operations and criteria. SRU personnel may also assist with limited servie, in suspect/vehicle take-downs when applicable, or whenever officer safety considerations may warrant their assistance.
	Operation Hierarchical Index
LOW RISK	No SRU consultation needed.
MODERATE RISK	Consult SRU - Operation may be conducted at the unit level.
HIGH RISK	Consult SRU - Operation may be conducted by SRU and/or by unit level personnel.
HIGHEST RISK	Operation should be conducted by SRU.

408.7 REVISIONS

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Response to Critical Incidents and Planned Operations

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Response to Bomb Calls

409.1 PURPOSE AND SCOPE

These guidelines have been prepared to assist officers in their initial response toincidents involving explosives, explosive devices, or explosion/bombing incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety shall always be the primary consideration.

409.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.2.4, 46.1.2

409.2 FOUND EXPLOSIVES/SUSPECT DEVICES

When handling an incident involving a suspected explosive device, the following guidelines should be followed:

(a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging. The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.

(b) A minimum perimeter of 300 feet should be established around the device. An access point should be provided for support personnel.

(c) As much information as is available should be promptly relayed to the Watch Commander including:

1. The stated threat.
2. Exact comments.
3. Time of discovery.
4. Exact location of the device.
5. Full description (e.g., size, shape, markings, construction) of the device.

(d) The device should not be touched or moved except by qualified bomb squad personnel.

(e) All equipment within 300 feet of the suspected device capable of producing radio frequency energy should be turned off. This includes two-way radios, cell phones and other personal communication devices.

(f) Consideration should be given to evacuating any buildings near the device.

(g) A search of the area should be conducted for secondary devices or other objects that are either hazardous or foreign to the area and a perimeter should be established around any additional suspicious device found.

(h) When in doubt, call for assistance from the Alameda County Sheriff's Department Bomb Squad (510) 667-7721.

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Explosive or military ordnance of any type should be handled only by the bomb squad or military ordnance disposal team.

409.3 EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic incidents, a rapid response may help to minimize injury to victims, contamination of the scene by gathering crowds or additional damage by resulting fires or unstable structures. Whether the explosion was the result of an accident or a criminal act, the responding officers should consider the following actions:

- Assess the scope of the incident, including the number of victims and extent of injuries
- Assist with first aid (The Hayward Fire Department has primary responsibility)
- Assist with evacuation of victims (The Hayward Fire Department has primary responsibility)
- Identify and take appropriate precautions to mitigate scene hazards such as collapsed structures, bloodborne pathogens, hazardous materials and secondary explosive devices
- Request additional resources as needed
- Identify witnesses
- Preserve evidence

409.3.1 NOTIFICATIONS

When an explosion has occurred, the following people shall be notified as soon as practicable if their assistance is needed:

(a) Fire Department

(b) Paramedics

(c) Alameda County Bomb Squad

(d) Additional officers

(e) Field supervisor(s)

(f) Watch Commander

(g) Criminal Investigations Bureau Manager and Supervisor

(h) Patrol and Special Operations Commanders

(i) Alcohol Tobacco and Firearms (ATF) and the Federal Bureau of Investigation (FBI)

(j) Forensic Science Services

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409.3.2 CROWD CONTROL
Only authorized personnel with a legitimate need shall be permitted access to the scene. Spectators and other unauthorized individuals shall be excluded to a safe distance as is reasonably practicable given the available resources and personnel.

409.3.3 SCENE OF INCIDENT
As in any other crime scene, steps should immediately be taken to preserve the scene. The scene could extend over a long distance. Evidence may be imbedded in nearby structures or hanging in trees and bushes.

409.4 BOMB THREATS RECEIVED AT POLICE FACILITY
This procedure shall be followed should a bomb threat call be received at the police facility.

409.4.1 BOMB THREATS RECEIVED BY TELEPHONE
The following questions should be asked if a call of a bomb is received at the Police Department:

- When is the bomb going to explode?
- Where is the bomb right now?
- What kind of bomb is it?
- What does it look like?
- Why did you place the bomb?
- Who are you? (to avoid possible termination of the call this should be the last question asked)

Attempt to keep the caller on the line as long as possible and obtain expanded answers to these five basic questions.

During this time, document the following:

- Time of the call
- Exact words of the person as accurately as possible
- Estimated age and gender of the caller
- Speech patterns and/or accents
- Background noises

If the incoming call is received at the police facility on a recorded line, steps shall be taken to ensure that the recording is preserved in accordance with current Department evidence procedures.

409.4.2 RESPONSIBILITIES
The employee handling the call shall ensure that the Watch Commander is immediately advised and fully informed of the details. The Watch Commander will then direct and assign officers as required for coordinating a general building search or evacuation as he/she deems appropriate.

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409.5 REVISIONS

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Mental Illness Commitments

410.1 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).

410.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.2.7

410.2 POLICY

The policy of the Hayward Police Department is to treat all persons with dignity and compassion. Employees must become familiar with the causes and nature of mental disorders to determine if an individual is a danger to him/herself, others, or is gravely disabled. Sworn members are not expected to make judgments about or diagnose specific mental disorders. Officers must be able to recognize general indicators of mental disorders so that appropriate actions can be taken during contacts on the street as well as during interviews and interrogations.

It is the policy of the Hayward Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

410.3 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

410.3.1 VOLUNTARY EVALUATION

If officers encounter an individual who may qualify for a 5150 commitment, they 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 or coordinate transportation of the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.

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(b) If at any point the person changes his/her mind regarding voluntary evaluation, officers should proceed with the 5150 commitment, if appropriate.

(c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

410.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:

(a) Available information that might assist in determining the cause and nature of the person's action or stated intentions.

(b) Community or neighborhood mediation services.

(c) Conflict resolution and de-escalation techniques.

(d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

Officers should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

410.4.1 SECURING OF PROPERTY

When a person is taken into custody for evaluation, or within a reasonable time thereafter, and unless a responsible relative, guardian or conservator is in possession of the person's personal property, the officer shall take reasonable precautions to safeguard the individual’s personal property in his/her possession or on the premises occupied by the person (Welfare and Institutions Code § 5150).

The officer taking the person into custody shall provide a report to the court that describes the person’s property and its disposition in the format provided in Welfare and Institutions Code § 5211, unless a responsible person took possession of the property, in which case the officer shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150).

410.5 TRANSPORTATION

The officer initiating a 5150 commitment will be responsible for arranging for an ambulance to transport the subject. If the safety of any person, including the detainee, requires the presence of an officer during transport, Watch Commander approval is required before transport commences.

In cases when the officer is responsible to transport any individual for a 5150 commitment, the transporting officer should have Communications 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.

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Officers may transport individuals in a patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy.

410.6 TRANSFER TO APPROPRIATE FACILITY

In cases where the officer transports an individual for a 5150 commitment, the officer will escort the individual into a treatment area designated by a facility staff member upon arrival to the facility. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for 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.

410.7 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 officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

410.7.1 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).

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410.8 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 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 to regain custody of the individual, department resources (e.g., posting a guard) and other relevant factors in making this decision.

410.9 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 Institute § 8100. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g. safekeeping, evidence, consent).

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)). Additionally, refer to the Property and Evidence Procedure.

410.9.1 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 Criminal Investigations Bureau, which shall be responsible for initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon will be returned.

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The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the Department makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Department shall send written notice to the individual informing him/her of the right to a hearing on the issue, that he/she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon.

410.10 TRAINING

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with mentally disabled persons, 5150 commitments and crisis intervention.

410.11 REVISIONS

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Cite and Release Policy

411.1 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.

411.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.1.3, 1.2.6, 1.2.7, 44.2.1, 74.3.1, 82.2.2

411.2 POLICY

It is the policy of the Hayward Police Department to release all persons arrested on misdemeanor or other qualifying charges on a citation with certain exceptions (Penal Code § 853.6).

If there is a reason for non-release, the Department's mission to protect the community will be the primary consideration when determining whether to release any individual in lieu of holding for court or bail.

411.3 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.

411.3.1 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.

411.3.2 JAIL RELEASE

In certain cases, it may be impractical to release a person arrested for misdemeanor offenses in the field. The person arrested may instead be released after booking at the jail.

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Cite and Release Policy

Any person arrested for a misdemeanor offense shall be released on his/her written promise to appear after the booking procedure is completed, unless disqualified for reasons listed in this Policy Manual or prescribed by law.

411.4 NON-RELEASE

411.4.1 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)

411.4.2 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.

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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.

(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.

411.5 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.

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(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.

(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.

411.6 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 Hayward City codes

All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to the Criminal Investigations Bureau for further action including diversion.

411.7 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.

411.8 REVISIONS

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Foreign Diplomatic and Consular Representatives

412.1 PURPOSE AND SCOPE

Article 36 of the Vienna Convention on Consular Relations, sets forth certain rights of foreign nationals from member countries when arrested, detained or imprisoned by law enforcement officials in this country. This section provides direction to officers when considering a physical arrest or detention of a foreign national. All foreign service personnel shall be treated with respect and courtesy, regardless of the level of established immunity. As noted herein, the United States is a party to several bilateral agreements that obligate authorities to notify the consulate upon the person's detention, regardless of whether the detained person requests that his/her consulate be notified. The list of specific countries that the United States is obligated to notify is listed on the U.S. Department of State website.

412.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.1.4, 1.2.5, 41.2.4, 74.3.1

412.1.2 DEFINITIONS

Foreign National - Anyone who is not a citizen of the United States (U.S.). A person with dual-citizenship, U.S. and foreign, is not a foreign national.

Immunity - Refers to various protections and privileges extended to the employees of foreign governments who are present in the U.S. as official representatives of their home governments. These privileges are embodied in international law and are intended to ensure the efficient and effective performance of their official "missions" (i.e., embassies, consulates, etc.) in foreign countries. Proper respect for the immunity to which an individual is entitled is necessary to ensure that U.S. diplomatic relations are not jeopardized and to maintain reciprocal treatment of U.S. personnel abroad. Although immunity may preclude U.S. courts from exercising jurisdiction, it is not intended to excuse unlawful activity. It is the policy of the U.S. Department of State's Office of Foreign Missions (OFM) that illegal acts by Foreign Service personnel should always be pursued through proper channels. Additionally, the host country's right to protect its citizens supersedes immunity privileges. Peace officers may intervene to the extent necessary to prevent the endangerment of public safety or the commission of a serious crime, regardless of immunity claims.

412.2 POLICY

The Hayward 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.

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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.

(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

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2. Diplomatic agents and recognized family members
3. Members of administrative and technical staff of a diplomatic mission and recognized family members
4. Career consular officers, unless the person is the subject of a felony warrant

(e) The following persons may generally be detained and arrested:

1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
2. Support staff of missions to international organizations
3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
4. Honorary consular officers
5. Whenever an officer arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the officer shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the officer shall begin the notification process.

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)

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Service Staff	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Career Consul Officer	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts. Yes otherwise (note (a))	No immunity or inviolability
Honorable Consul Officer	Yes	Yes	Yes	No for official acts Yes otherwise.	No for official acts Yes otherwise	No immunity or inviolability
Consulate Employees	Yes (note (a))	Yes	Yes	No for official acts Yes otherwise.	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Int'l Org Staff (note (b))	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts. Yes otherwise (note (c))	No immunity or inviolability
Diplomatic-Level Staff of Missions to Int'l Org	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Support Staff of Missions to Int'l Orgs	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

(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.

CategoryArrested or DetainedEnter Residence Subject to Ordinary ProceduresIssued Traffic CitationSubpoenaed as WitnessProsecutedRecognized Family

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MembersDiplomatic AgentNo(note (b))NoYesNoNoSame as sponsor (full immunity & inviolability)Member of Admin and Tech StaffNo(note (b))NoYesNoNoSame as sponsor (full immunity & inviolability)Service StaffYes(note (a))YesYesYesNo for official acts.Yes otherwise(note (a))No immunity or inviolability(note (a))Career ConsulOfficerYes if for a felony and pursuant to a warrant(note (a))Yes(note (d))YesNo for official actsTestimony may not be compelled in any caseNo for official actsYes otherwise(note (a))No immunity or inviolabilityHonorable ConsulOfficerYesYesYesNo for official actsYes otherwise.No for official actsYes otherwiseNo immunity or inviolabilityConsulate EmployeesYes(note (a))YesYesNo-for official actsYes otherwiseNo for official actsYes otherwise(note (a))No immunity or inviolability(note (a))Int'l Org Staff(note (b))Yes(note (c))Yes(note (c))YesYes(note (c))No for official actsYes otherwise

412.7 REVISIONS

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Rapid Response and Deployment Policy

413.1 PURPOSE AND SCOPE

Violence in schools, workplaces and other locations by any individual or group of individuals presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding officers as they make decisions in these rapidly unfolding and tense situations.

413.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 46.1.10

413.2 POLICY

The Hayward 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 necessary 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.

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(f) Whether planned tactics can be effectively deployed.

(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 POLICY AND TRAINING REVIEW

The Department will conduct an annual review of policy and training needs regarding active threats.

413.3.2 RESPONSE TO SCHOOL THREATS

Upon receiving a threat or perceived threat to a school or its population from a school official,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 REVISIONS

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Reporting Police Activity Outside of Jurisdiction

414.1 PURPOSE AND SCOPE

This policy provides general guidelines for reporting police activity while on or off-duty and occurring outside the jurisdiction of the Hayward Police Department.

414.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 2.1.2

414.1.2 LAW ENFORCEMENT ACTIVITY OUTSIDE THE CITY

When an officer is on-duty and is requested by an allied agency to participate in law enforcement activity in another jurisdiction, he/she shall obtain prior approval from the immediate supervisor or the Watch Commander. If the request is of an emergency nature, the officer shall notify the Communications Center before responding and thereafter notify a supervisor as soon as practical.

414.1.3 LAW ENFORCEMENT ACTIVITY OUTSIDE THE CITY

Any on-duty officer, who engages in law enforcement activities of any type outside the immediate jurisdiction of the Hayward Police Department, shall notify his or her supervisor or the Watch Commander at the earliest possible opportunity. Any off-duty officer who engages in any law enforcement activities, regardless of jurisdiction shall notify the Watch Commander as soon as practical.

A written report shall be filed by the employee documenting the police activity outside the Hayward jurisdiction as directed by a supervisor for an on-duty incident, and in all circumstances for an off-duty incident.

414.2 REVISIONS

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Immigration Violations

415.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Hayward Police Department relating to immigration and interacting with federal immigration officials.

415.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

415.1.2 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 SUPPLEMENTAL DEFINITIONS

A. DHS Form I-247A (Immigration Detainer-Notice of Action) requests the following of the receiving law enforcement agency

1. Requests HPD notify ICE, as early as practical, of the release date of an inmate prior to his/her release
2. Requests HPD maintain custody of an inmate for a period not to exceed 48 hours beyond his/her scheduled release
3. Requests HPD relay the detainer request to any other law enforcement agency to which the inmate is transferred.
4. Requests HPD notify ICE in the event of the inmate's death, hospitalization, or transfer to another institution.

B. DHS Form I-200 (Warrant for Arrest of Alien), directs any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of Title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations.

C. DHS Form I-205 (Warrant of Removal/Deportation), directs any immigration officer of the United States Department of Homeland Security to remove/depart the specified inmate.

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D. ICE Access: The Truth Act defines “Ice Access” for the purposes of civil immigration enforcement, to include when an individual is stopped with or without their consent, arrested, detained, or otherwise under the control of the local law enforcement agency, all the following:

1. Responding to an ICE hold, notification, or transfer request.
2. Providing notification to ICE in advance of the public that an individual is being or will be released at a certain date and time through data sharing or otherwise.
3. Providing ICE non-publicly available information regarding release dates, home addresses, or work addresses, whether through computer databases, jail logs or otherwise.
4. Allowing ICE to interview an individual.
5. Providing ICE information regarding dates and times of probation or parole hold check-ins.

E. TRUST ACT: Provides that a person may not be held in custody solely based on a request for notification and/or detainer if he or she is otherwise eligible to be released from custody. “Eligible for release from custody” means that the individual may be released from custody because one of the following conditions has occurred:

1. All criminal charges against the individual have been dropped or dismissed.
2. The individual has been acquitted of all criminal charges.
3. The individual has served all the time required for their sentence.
4. The individual has posted a bond.
5. The individual is otherwise eligible for release under state or local law.

F. California Values Act, Senate Bill 54 (SB 54), enacted on October 5, 2017, amends provisions of Government Code 7282 et seq., barring immigrations enforcement activities and setting specific threshold criteria for responding to ICE requests. SB 54 does not release the agency of its duties as defined by the Truth Act.

G. Transfer of Custody: The custody exchange of an inmate within the secure area of the facility not accessible to the public, from HPD’s custody to the custody of another law enforcement agency.

H. Joint Law Enforcement Task Force: At least one California law enforcement agency collaborating, engaging, or partnering with at least one federal law enforcement agency in investigating federal or state crimes.

415.3 POLICY

It is the policy of the Hayward 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. Hayward Police Department does not accept or honor detainers from

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Immigration and Customs Enforcement (ICE); an ICE detainer signed by an ICE agent is not an arrest warrant signed by a judge.

Under no circumstances shall a person be detained or arrested by HPD based solely on his or her immigration status, whether known or unknown. The responsibility for enforcement of immigration laws rests solely with ICE, under the direction of the Department of Homeland Security (DHS). ICE detainers are voluntary requests that do not compel state or local law enforcement to detain persons suspected subject to removal.

415.4 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.

415.4.1 BASIS FOR CONTACT

An officer's suspicion about any person's immigration status shall not be used as a basis to initiate contact, detain, or arrest that person unless such status is reasonably relevant to the investigation of a crime under California law, such as, but not limited to, trafficking, smuggling, harboring and terrorism.

HPD will not inquire about a person's immigration status during arrest procedure, unless such status is reasonably relevant to the investigation of a crime under California law, such as, but not limited to, trafficking, smuggling, harboring, and terrorism.

415.4.2 SWEEPS

Personnel will not participate in ICE organized sweeps to locate and detain undocumented residents. This does not preclude staff from assisting ICE during critical incidents or emergency requests for assistance. Each level of assistance will be evaluated by the on-scene supervisor to ensure HPD's level of participation remains consistent with this order and California law while protecting human life and property.

415.4.3 IDENTIFICATION

Personnel should make all attempts to identify any person they detain, arrest, or who come into the custody of HPD.

Any person who would be cited and released, but who is unable to present satisfactory evidence of his or her identity, will be detained for the purpose of establishing his or her identity, consistent with the treatment of all individuals.

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415.4.4 ARREST
If the officer intends to take enforcement action and the individual is unable to reasonably establish his/her true identity, the officer may take the person into custody on the suspected criminal violation (see applicable sections of the Vehicle Code and Penal Code, if applicable.

415.4.5 BOOKING
If the officer is unable to reasonably establish an arrestee's identity, the individual may be booked into jail for the suspected criminal violation and held for bail.

A person detained exclusively pursuant to the authority of Vehicle Code § 40302(a) for any Vehicle Code infraction or misdemeanor shall not be detained beyond two hours for the purpose of establishing his/her true identity. Regardless of the status of that person's identity at the expiration of two hours, he/she shall be released on his/her signature with a promise to appear in court for the Vehicle Code infraction or misdemeanor involved unless there is cause to hold the arrestee under the non-release provisions of section 853.6(i) of the penal code. Immigration status shall not be a consideration in determining release, and arrestees shall not be held in custody on the basis of an immigration detainer alone.

415.5 IMMIGRATION INQUIRIES PROHIBITED
Officers shall not inquire into an individual’s immigration status for immigration enforcement purposes (Government Code § 7284.6).

When HPD personnel encounter suspected immigration law violations, members shall be guided by the options set forth in this policy, pursuant to state law. Citizen contacts, detentions, and arrests shall be based on reasonable suspicion or probable cause in a manner prescribed by law. HPD personnel shall not initiate law enforcement actions based solely on observations related to a subject’s immigration status.

415.5.1 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).

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).

415.5.2 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 sec. 1808.48).

415.6 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).

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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).

415.6.1 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.

415.7 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.).

415.8 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.

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Immigration Violations

415.8.1 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.

415.8.2 DETENTION FACILITY

A. When receiving a DHS Form I247-A (ICE Detainer-Notice of Action), and it is suspected that the prisoner will be released with a Promise to Appear or is going to post bail, HPD staff will conduct a review of the subject inmate's criminal history via local and state law enforcement databases to determine if they meet the notification criteria established in Gov. Code Section 7282.5. Findings made pursuant to this review will be recorded as part of the scanned booking documents. Requests for interview by ICE do not require the specified inmate meet the criteria in accordance with Gov. Code Section 7282.5 for the interview to take place. The criteria for interview requests will be met in accordance with The Truth Act.

B. If the criteria have been met to provide ICE with notifications, HPD Staff will complete the bottom portion of the DHS Form I-247A including the release date if one is known and return to ICE. HPD Staff will proceed with the inmate notification process in accordance with The Truth Act.If the criteria have not been met, HPD Staff will not complete the bottom portion of the DHS Form I-247A and will not respond to ICE. HPD Staff will proceed with the proper notification process in accordance with The Truth Act.

C. HPD Staff must advise the inmate of the ICE request and provide him/her with a copy of the DHS Form I-247A (Refer to "Ice Access" Definition).

D. HPD Staff must provide written notification of the ICE request to the inmate. This notification is provided via agency notification forms entitled the "Immigration Notification to Inmate" (Truth Act Form 2), and the "Civil Immigration Consent Form" (Truth Act Form 1) forms. The forms will be completed, and copies provided to the inmate, explaining the following:

1. The HPD "Immigration Notification to Inmate" form advises the inmate of the ICE request and of whether HPD will comply with the request. The form also contains

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space for the inmate to provide contact information for the inmate's attorney and designated third party, if available.

2. The HPD "Civil Immigration Consent Form" advises the inmate of an ICE request for interview and indicates whether the inmate voluntarily consents or declines the ICE request for interview. The "Civil Immigration Consent" will be provided to the inmate in advance of any interview between ICE and the individual.

3. The "Immigration Notification to Inmate" and "Civil Immigration Consent" forms are available in several languages, in accordance with The Truth Act. The forms are available in English, Spanish, Cantonese, Mandarin, Tagalog, Vietnamese and Korean.

E. Once the inmate has been served with the notification forms, the inmate will retain the original copy of the forms. A second copy of the forms will be attached to the inmates booking packet and provided to the Jail Administrator. The Jail Administrator shall retain hard copies of the packets for yearly reporting purposes, and the inmates entire booking packet will be scanned into the corrections module as is current retention practice.

F. ATTORNEY/DESIGNEE NOTIFICATION FORM: Whenever HPD receives any ICE requests on an inmate within our custody via the DHS Form I-247A, a copy of the form shall also be provided to the specified inmate(s) and their attorney of record, upon the attorney's request.

G. Upon notification to ICE that an individual is being or will be released on a certain date, HPD staff shall promptly provide the same notification in writing to the individual, to his or her attorney, and to one additional person who the individual shall be permitted to designate.

H. The HPD form titled "Immigration Notification to Attorney" shall be used to make written notification to the attorney of record and the third-party designee of the inmates choosing. The form will be completed and mailed to each party as designated on the form.

I. Should a person return to the HPD detention facility on a subsequent incarceration and upon receipt of the DHS Form I-247A for that individual, the entire process shall be repeated.

415.8.3 HPD PARTICIPATION IN JOINT LAW ENFORCEMENT TASK FORCES

1. In situations when HPD participates in a joint law enforcement task force, members of the task force may conduct enforcement or investigative duties, including the sharing of confidential information with other law enforcement agencies. For the purposes of task force investigations. The primary purpose of any joint law enforcement task force HPD is involved with shall not be immigration enforcement. The enforcement or investigative duties shall primarily be related to violations of state law or federal law unrelated to immigration enforcement.

2. HPD or a mutually agreed upon participating California law enforcement agency shall submit an annual report to DOJ outlining the purpose of the task force, specific agencies involved,

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total number of arrests made during the evaluation period, and number of people arrested for immigration enforcement purposes.

415.8.4 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 Hayward Police Department intends to comply with the request (Government Code § 7283.1).

If the Hayward 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).

415.8.5 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the Hayward 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.

415.8.6 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.

415.8.7 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Criminal Investigations 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 Administrator for required reporting to the DOJ (Government Code § 7284.6(c)(2)(see the [Records Bureau] Policy).

415.9 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)).

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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 Criminal Investigations Bureau supervisor assigned to oversee the handling of any related case. The Criminal Investigations 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.

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). Form I-914 Supplement B certification shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking).

(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.

(e) Inform the victim liaison of any requests and their status.

415.9.1 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 (as defined in Penal Code § 679.10 and Penal Code § 679.11) 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.

415.9.2 REPORTING TO LEGISLATURE

The Criminal Investigations 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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415.9.3 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).

415.10 ADDITIONAL SB 54 GUIDELINES FOR ALL STAFF

1. HPD staff are prohibited from using immigration authorities as interpreters for law enforcement matters relating to individuals in agency or department custody.

2. HPD staff may respond to a request from immigration authorities for information about a specific person's criminal history, including criminal arrests, convictions or similar criminal history information accessed through the California Law Enforcement Telecommunications System (CLETS) database.

3. HPD staff may make inquiries into information necessary to certify an individual who has been identified as a potential crime or trafficking victim for a T or U Visa pursuant to federal law.

4. All records relating to ICE access provided by and to HPD, including all non-exempt and non-privileged communication involving ICE, shall be public records for purposes of the California Public Records Act (CPRA). As permitted under the CPRA, personal identifying information and other exempt information may be redacted prior to public disclosure. SB 54 does not otherwise preempt or overrule HPD's obligations under the CPRA.. Records relating to ICE access may include, but are not limited to:

a. Data maintained by HPD regarding the number and demographic characteristics of individuals to whom HPD has provided ICE access;

b. The date ICE access was provided;

c. Whether the ICE access was provided through a notification request, transfer, or through other means, to the extent the HPD maintains such records; and

d. Non-exempt records to and/or from ICE and HPD, including, but not limited to ICE notification or transfer requests.

e. These records shall be maintained in New World Systems RMS.

5. Beginning January 1, 2018, if HPD has provided ICE access to an individual during the last year, HPD and the City of Hayward should coordinate and hold at least one community forum during the following year in an accessible location, and with at least 30 days' notice to provide information to the public about ICE's access to individuals and to receive and consider public comment.

As part of this forum, HPD may provide the City Council with data it maintains regarding the number and demographic characteristics of individuals to whom the agency has provided ICE access, the date ICE access was provided and whether the ICE access was provided through a notification request or through other means. Data may be provided in the form of statistics or, if statistics are not maintained, individual records, provided that personally identifiable information shall be redacted.

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415.11 TRAINING

The Personnel and Training Administrator should ensure that all appropriate members receive immigration training.

415.12 REVISIONS

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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 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

416.1.2 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 the Communications Center.

416.1.3 ELECTRICAL LINES

City Public Works does not maintain electrical lines to street light poles. When a power line poses a hazard, an officer should be dispatched to protect against personal injury or property damage that might be caused by power lines. Pacific Gas & Electric or Public Works should be promptly notified, as appropriate.

416.1.4 RESERVOIRS, PUMPS, WELLS, ETC.

Public Works maintains the reservoirs and public water equipment, as well as several underpass and other street drainage pumps. In the event of flooding or equipment malfunctions, emergency personnel should be contacted as soon as possible.

416.1.5 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies is maintained by the Communications Center.

416.2 TRAFFIC SIGNAL MAINTENANCE

The City of Hayward and Cal-Trans are responsible to furnish maintenance for all traffic signals within the city.

416.2.1 OFFICER'S RESPONSIBILITY

Upon observing a damaged or malfunctioning signal, the officer will advise the Communications Center of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency.

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Aircraft Accidents

417.1 PURPOSE AND SCOPE

This policy describes situations involving aircraft accidents including responsibilities of personnel, making proper notification, and documentation.

417.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.2.4, 46.1.2

417.1.2 ORGANIZATION AND OPERATION

The response to an Aircraft Accident by its magnitude and danger can be considered a "Critical Incident". If the response, evacuation, aid to injured or management of the call is significant it should be organized and operated in accordance with the "All Hazard Plan" utilizing the structure of the Incident Command System (ICS). See the Emergency Management Plan policy for further information on ICS.

417.2 RESPONSIBILITIES

In the event of an aircraft crash the employee responsibilities are as follows:

417.2.1 OFFICER RESPONSIBILITY

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

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

(a) Determine the nature and extent of the accident.

(b) Request additional personnel and other resources to respond as needed.

(c) Provide assistance for the injured parties until the arrival of fire Department personnel and/or other emergency personnel.

(d) Cordon off and contain the area to exclude unauthorized individuals as soon as practicable.

(e) Provide crowd control and other assistance until directed otherwise by a supervisor.

(f) Ensure the Coroner's office is notified if a death occurs.

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

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

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

An airport service worker or the airport manager may respond to the scene to assist the on-scene Commander with technical expertise, should it be needed during the operation.

417.2.2 NATIONAL TRANSPORTATION SAFETY BOARD

The National Transportation Safety Board (NTSB) has the primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft incident, the appropriate branch of the military will be involved in the investigation. The NTSB is concerned with several aspects of a crash as described in this section.

Every effort should be made to preserve the scene to the extent possible in the condition in which it was found until such time as NTSB or other authorized personnel arrive to take charge of the scene.

Military personnel will respond to take charge of any military aircraft involved, whether or not injuries or deaths have occurred.

If the accident did not result in a death or injury and the NTSB elects not to respond, the pilot or owner may assume control of the aircraft.

Removal of the wreckage shall be done under the guidance of the NTSB or military authorities or, if the NTSB is not responding for an on-site investigation, at the discretion of the pilot or the owner.

417.2.3 THE COMMUNICATIONS CENTER RESPONSIBILITIES

Dispatchers are responsible to make notifications as directed once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. Generally, the dispatcher will need to notify the following agencies or individuals when an aircraft accident has occurred:

(a) Hayward Fire Department.

(b) Hayward Airport Tower.

(c) Watch Commander.

(d) Hayward Airport Manager.

(e) Closest military base if a military aircraft is involved.

(f) Ambulances or other assistance as required.

Most aircraft accidents will be reported to the Police Department from the Air Traffic Controller(s) in the tower of the Hayward Executive Municipal Airport. The dispatcher receiving such information

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should ensure 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. The Airport Manager should be notified as soon as practical. Notification may be accomplished through airport employees or by calling the Airport Manager at home during non-business hours.

417.2.4 RECORDS ADMINISTRATOR RESPONSIBILITIES
The Records Supervisor is responsible for the following:

(a) Forward and maintain an approved copy of the accident report to the Federal Aviation Administration (FAA).

(b) Forward a copy of the report to the Patrol Division Commander and the City of Hayward Airport Manager.

417.2.5 PUBLIC INFORMATION OFFICER RESPONSIBILITIES
The Department Public Information Officer is responsible for the following:

(a) Obtain information for a press release from the on-scene commander or his or her designee.

(b) When practical, the Department Public Information Officer should coordinate with the FAA Press Information Officer to prepare a press release for distribution to the Media.

Information released to the press regarding any aircraft accident should be handled by the Department Public Information Officer or in accordance with existing policy.

417.3 DOCUMENTATION

Any aircraft accident (crash) within the City, regardless of whether injuries or deaths occur, shall be documented in a police report.

417.4 REVISIONS

Enacted: December 17, 2007

Revised: February 18, 2009

Revised: July 8, 2009

Revised: March 16, 2011

Revised: September 19, 2014

Revised: May 23, 2016

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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 Hayward Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training Officer Program that is designed to prepare the new officer to perform in a patrol assignment, and possessing all skills needed to operate in a safe, productive and professional manner.

418.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 33.4.1, 33.4.2, 33.4.3

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

FTOs will be selected based on the following requirements:

(a) Desire to be an FTO.

(b) Minimum of four years of patrol experience, two of which shall be with this Department or with a Department similar to the Hayward Police Department.

(c) Must be off probation at the time of appointment.

(d) Demonstrated ability as a positive role model.

(e) Possess a POST Basic certificate.

(f) Complete application process when openings are announced.

(g) Participate in and pass an internal oral interview selection process.

(h) If successful, an evaluation by supervisors and current FTOs will be documented.

(i) The Field Training Administrator will then compile a written memorandum documenting the process and ranking of the candidates based on their overall performance throughout the process.

(j) The Patrol Division Commander will then review the memorandum and forward it on to the Chief of Police, who will make the selections.

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.

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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 Patrol Division Commander or a designee and should possess, or be eligible to receive, a POST Supervisory Certificate.

The responsibilities of the FTO Program supervisor include the following:

(a) Assignment of trainees to FTOs

(b) Conduct FTO meetings

(c) Maintain and ensure FTO/trainee performance evaluations are completed

(d) Maintain, update and issue the Field Training Manual to each trainee

(e) Monitor individual FTO performance

(f) Monitor overall FTO Program

(g) Maintain liaison with FTO coordinators of other agencies

(h) Maintain liaison with academy staff on recruit performance during the academy

(i) Develop ongoing training for FTOs

The 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 Hayward Police Department who has successfully completed a POST approved Basic Academy.

418.5 REQUIRED TRAINING

Entry level officers shall be required to successfully complete the Field Training Program, consisting of a minimum of 10 weeks (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.

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Field Training Officer Program

418.5.1 FIELD TRAINING PROGRAM
The field training program guidelines are located in the Field Training Manual, which is maintained by the Personnel and Training Office.

418.5.2 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 a curriculum based on tasks of the most frequent assignment associated duties of officers who complete recruit training and subject matter and/or skills necessary to properly function as an officer with the Hayward 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 Hayward 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:

(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 FIELD TRAINING SUPERVISOR
The FTO Program supervisor shall review the Daily Observation Reports and End of Phase Evaluations completed by the FTOs as a means of keeping appraised of a trainee's progress and the FTO's performance as a trainer.

418.6.3 FIELD TRAINING ADMINISTRATOR
The Field Training Administrator will review and approve the Daily Trainee Performance Evaluations and End of Phase Evaluations submitted by the FTO.

418.6.4 TRAINEE
At the completion of the Field Training Program, the trainee shall submit a confidential performance evaluation on each of their FTOs and on the Field Training Program.

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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

418.8 REVISIONS

Enacted: December 17, 2007

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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.

419.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.2.2

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 of the request for a helicopter, the Watch Commander, or his/her designee, will call the closest agency having helicopter support available. The Watch Commander on duty will apprise that agency of the specific details of the incident prompting the request.

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.

419.3 REVISIONS

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Detentions and Photographing Detainees

420.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for conducting field interviews (FI) and pat-down searches, and the taking and retention of photographs of persons detained in the field but not arrested and/or consensually contacted in the field. Due to a variety of situations confronting the officer, the decision to FI or photograph a field detainee shall be left to the discretion of the involved officer based on the totality of the circumstances available to them at the time of the detention.

420.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.2.3, 82.3.5

420.2 DEFINITIONS

Detention - Occurs when an officer intentionally, through words, actions or physical force causes an individual to reasonably believe he/she is being required to restrict his/her movement. Detentions also occur when an officer actually restrains a person’s freedom of movement.

Consensual Encounter - Occurs when an officer contacts an individual but does not create a detention through words, actions or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

Field Interview - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purposes of determining the individual's identity and resolving the officer's suspicions.

Field Photographs - Field photographs are defined as posed photographs taken of a person during a contact, detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-Down Search - This type of search is used by officers in the field to check an individual for weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

Reasonable Suspicion - Occurs when, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

420.3 FIELD INTERVIEWS

Officers may stop individuals for the purpose of conducting an FI where reasonable suspicion is present. In justifying the stop, the officer should be able to point to specific facts which, when taken together with rational inferences, reasonably warrant the stop. Such facts include, but are not limited to, the following:

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(a) The appearance or demeanor of an individual suggests that he/she is part of a criminal enterprise or is engaged in a criminal act.

(b) The actions of the suspect suggest that he/she is engaged in a criminal activity.

(c) The hour of day or night is inappropriate for the suspect's presence in the area.

(d) The suspect's presence in the particular area is suspicious.

(e) The suspect is carrying a suspicious object.

(f) The suspect's clothing bulges in a manner that suggests he/she is carrying a weapon.

(g) The suspect is located in proximate time and place to an alleged crime.

(h) The officer has knowledge of the suspect's prior criminal record or involvement in criminal activity.

(i) The contacted subject(s) is similar to a described subject or sought person.

(j) The recording of a person's personal information as part of a witness contact, in futehrance of an investigation.

(k) Consensual contact of a subject.

420.3.1 INITIATING A FIELD INTERVIEW

An officer may initiate the stop of a person when there is articulable, reasonable suspicion to do so. A person however, should not be detained longer than is reasonably necessary to resolve the officer’s suspicions.

Nothing in this policy is intended to discourage consensual contacts. Frequent and random casual contacts with consenting individuals are encouraged by the Hayward Police Department to strengthen our community involvement, community awareness and problem identification.

420.3.2 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 investigators to utilize available personnel for the following:

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

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

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

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

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

420.4 PAT-DOWN SEARCHES

A pat-down search of a detained or consensually contacted subject may be conducted whenever an officer reasonably believes that the person may possess an object that can be utilized as an offensive weapon or whenever the officer has a reasonable fear for his/her own safety or the safety of others. Circumstances that may establish justification for performing a pat-down search include, but are not limited to the following:

(a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.

(b) Where more than one suspect must be handled by a single officer.

(c) The hour of the day and the location or neighborhood where the stop takes place.

(d) Prior knowledge of the suspect's use of force and/or propensity to carry deadly weapons.

(e) The appearance and demeanor of the suspect.

(f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.

(g) The age and gender of the suspect.

Whenever possible, pat-down searches should be performed by officers of the same gender.

420.5 FIELD PHOTOGRAPHS

Before photographing any field detainee or consensually contacted subject, 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 of the photograph knowingly and voluntarily gives consent. When taking a consensual photograph, the officer should make a reasonable attempt to have the individual read and sign the appropriate form accompanying the photograph or capture their consent via the officer's audio recorder device.

420.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if they are taken during a detention/ consensual contact that is based upon reasonable suspicion of criminal activity, and:

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The photograph serves a legitimate law enforcement purpose related to the detention/contact. Suspicion of gang membership or affiliation is not a sufficient justification for taking a photograph without consent. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct.

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken. Knowledge of gang membership or affiliation reasonably indicates criminal activity, as noted in Penal Code § 186.22.

All field photographs and related reports shall be submitted and retained in compliance with this policy.

420.6 SUPERVISOR RESPONSIBILITY

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph. Access to field photographs shall be strictly limited to law enforcement purposes.

420.7 DISPOSITION OF PHOTOGRAPHS

All detainee/consensual contact photographs not solely used for intelligence purposes must be adequately labeled and submitted immediately to the Investigations Division Special Duty Unit Supervisor with either an associated FI card, incident report, or other memorandum 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 collection procedures. Detainee/consensual contact photographs taken for intelligence purposes will be retained by the Investigations Division Special Duty Unit Supervisor.

If a photograph is not associated with an investigation where a case number has been issued, the officer will forward it to one of the following locations:

(a) If the photograph, associated FI card or memorandum is relevant to criminal street gang enforcement, it shall be forwarded to the Investigations Division Special Duty Unit Supervisor or, when appropriate, directly to the case Detective/Inspector for further processing and retention pursuant to he Criminal Organizations Policy.

(b) Photographs that do not qualify for criminal street gang file retention or which are not evidence in an investigation with an assigned case number should be forwarded to the Investigations Division Special Duty Unit Supervisor. These photographs will be purged pursuant to this policy.

When a photograph is taken in association with a particular case, the Detective/Inspector may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs will be kept in the Records Bureau in a separate non-booking photograph file in alphabetical order.

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420.7.1 PURGING THE FIELD PHOTO FILE

The Records Bureau/Special Duty Unit Supervisor will be responsible for ensuring that photographs maintained by the Department that are more than one year old and no longer serve a law enforcement purpose are periodically purged and destroyed. Photographs that continue to serve a legitimate law enforcement purpose may be retained longer than five years provided that a notation of that fact is added to the file for each additional year that they are retained. Access to the photo file shall be strictly limited to law enforcement purposes.

A photograph need not be purged but may be retained as an updated photograph in a prior booking file if the person depicted in the photograph has been booked at the Hayward Police Department and the booking file remains in the Records Bureau.

420.8 PHOTO REVIEW POLICY

Any person who has been the subject of a field photograph by this agency during any contact other than an arrest may file a written request within 30-days of the contact to contest the lawful/unlawful taking of and status of the photograph. The request shall be directed to the office of the Chief of Police who will ensure that the status of the photograph or FI is properly reviewed according to this policy as described below. Upon a verbal request, the Department will send a request form to the requesting party and require it to be filed to the office of the Chief of Police within 30-days.

420.8.1 REVIEW PROCESS

Upon receipt of such a written request, the Chief of Police or his or her designee will permit the individual to appear in person (any minor must be accompanied by their parent or legal guardian) for a review of the status of the photograph.

Such a meeting will generally be scheduled during regular business hours within 30-days of the receipt of the written request. An extension of the 30-day limit may be made either upon the mutual convenience of the parties or if, at the discretion of the Chief of Police, there appears to be an ongoing legitimate law enforcement interest which warrants a delay. If the delay could jeopardize an ongoing investigation, nothing in this policy shall require the Chief of Police to disclose the reason(s) for the delay.

A meeting for the review of the status of any non-arrest photograph is not intended to be a formal hearing, but simply an informal opportunity for the individual to meet with the Chief of Police or his/her designee to discuss the matter.

After carefully considering the information available, the Chief of Police or designee will determine, generally within 30-days of the original meeting, whether the photograph was obtained in accordance with existing law and Hayward Police Department policy and, even if properly obtained, then whether there is any ongoing legitimate law enforcement interest in retaining the photograph.

If the Chief of Police or his/her designee determines that the photograph was obtained in accordance with existing law and Department policy and that there is an ongoing legitimate law

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enforcement interest in retaining the non-arrest photograph, the photograph shall be retained according to this policy and applicable law.

If the Chief of Police or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest photograph no longer exists or that it was obtained in violation of existing law or Hayward Police Department policy, the original photograph will be destroyed or returned to the person photographed, if requested. All other associated reports or documents, however, will be retained according to Department policy and applicable law.

If the Chief of Police or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest photograph no longer exists or that the photograph was not obtained in accordance with established law or Hayward Police Department policy, the original photograph may only be destroyed upon the execution of a full and complete waiver of liability by the individual (and guardian if a minor) arising out of that field contact.

If the Chief of Police or his/her designee determines that any involved Hayward Police Department personnel violated existing law or Department policy, the Chief of Police or designee shall investigate this according to Department policy.

The person photographed will be informed in writing within 30-days of the Chief of Police's determination whether or not the photograph will be retained. This does not entitle any person to any discovery or access to any law enforcement records not otherwise authorized by law.

420.9 REVISIONS

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Criminal Organizations

421.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Hayward 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.

421.1.2 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.2.3, 82.3.5

421.2 POLICY

The Hayward 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, FI, photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this department, such as open

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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 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 Administrator 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.

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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.

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

The Special Duty Investigations Unit Supervisor may maintain a temporary file of reports and FI's that is separate from any criminal gang intelligence database when an individual or group has been identified as a suspected criminal street gang participant or a suspected criminal street gang but does not meet the criteria necessary for entry into a criminal street gang intelligence database.

Inclusion in a temporary file may be done only if there is a reasonable likelihood that, within one year of the contact, the individual or group will meet the criteria for entry into a Department approved criminal street gang intelligence database. Reports and FI's will only be included in a temporary gang file with the written authorization of the Special Duty Investigations Unit Supervisor. A temporary file of criminal street gang participants or criminal street gangs shall include:

(a) Names, aliases, monikers, addresses, and other relevant identifying information.

(b) Gang name.

(c) Justification used to identify an individual as a criminal street gang participant.

(d) Vehicle(s) known to be used.

(e) Cross references to other identified gangs or gang members.

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 supervisor.

(b) Should not be originals that would ordinarily be retained by the Records Bureau or Property and Evidence Bureau, but should be copies of, or references to, retained documents such as copies of reports, field interview (FI) forms, the Communications Center 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.

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(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 REVIEW AND PURGING OF GANG PARTICIPANT FILE

Temporary files shall not be retained longer than one year. At the end of one year, temporary files must be purged if the information does not qualify for entry into a Department approved criminal street gang intelligence database.

The Special Duty Investigations Unit Supervisor shall periodically review temporary files to verify that the information was properly obtained and meets the criteria for retention. Validation and purging of temporary criminal street gang files is the responsibility of the Special Duty Unit Supervisor.

421.4.3 FILE REVIEW AND PURGING

While this policy does not establish a criminal gang intelligence database, the Chief of Police may approve one or more criminal gang intelligence databases for use by members of the Gang or Special Duty Units. Any such database should be compliant with 28 CFR § 23.20 regulating criminal intelligence systems. Employees must obtain the requisite training before accessing any such database.

It is the Special Duty Investigations Unit Supervisor's responsibility to determine whether any report or FI contains information that would qualify for entry into a Department approved criminal gang intelligence database. The Investigations Division Special Duty Unit Supervisor should maintain the FI's after appropriate database entries are made.

It is the Special Duty Investigations Unit Supervisor's responsibility to ensure that the provisions enumerated in Penal Code § 186.34 which became effective January 1, 2014 are followed including: Penal Code § 186.34 describes specific steps that need to be taken prior to the entry of a juvenile into a criminal gang intelligence database, not entered into the database prior to the enactment of the section including:

(a) Prior to designating a person under the age of 18 years as a suspected gang member, associate, or affiliate in a shared gang database, the Special Duty Investigation Unit Supervisor shall provide written notice to the person and his or 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 the minor.

The person to be designated as a suspected gang member, associate, or affiliate, or his or her parent or guardian, may submit written documentation to the Department contesting the designation. The following shall occur if written documentation is received:

(a) The Special Duty Investigations Unit Supervisor shall review the documentation, and if it is determined that the person is not a suspected gang member, associate, or affiliate, the supervisor shall remove the person from the shared gang database.

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(b) The Special Duty Investigations Unit Supervisor shall provide the person and his or her parent or guardian with written verification of the agency's decision within 60 days of submission of the written documentation contesting the designation.

Department members shall not disclose the location of the person to be designated as a suspected gang member, associate, or affiliate to his or her parent or guardian if the agency determines there is credible evidence that the information would endanger the health or safety of the minor. Records related to the gang activity of juveniles in the database shall be retained consistent with the provisions contained in 28 CFR § 23.20(h). Department members will not disclose any information protected under Evidence Code § 1040, Evidence Code § 1041 or Government Code § or 6254.

It is the responsibility of the Special Duty Investigations Unit Supervisor to retain reports and FI's in compliance with the procedures of the Department approved criminal gang intelligence database and 28 CFR § 23.20. The Investigations Division Special Duty Unit Supervisor may not purge these reports or FI's without the approval of the Investigations Division Commander, or his/her designee.

421.5 INFORMATION RECOGNITION

Officers who contact individuals who are, or may be participants in criminal street gang activity should complete a F.I. card and document the reasonable suspicion underlying the contact and the exact circumstances leading to the suspicion that the individual is a criminal street gang participant (e.g., subject states he or she is a member of XYZ gang; XYZ tattoo on right hand near thumb; wearing ball cap with gang name printed in blue or red ink).

Photographing known or suspected criminal street gang participants shall be done in accordance with the provisions of the Detentions and Photographing Detainees Policy.

421.6 RELEASE OF INFORMATION

When an inquiry is made by a parent or guardian as to whether a juvenile's name is in the temporary criminal street gang participant's file, such information shall be provided by the Special Duty Investigations Unit Supervisor, unless there is good cause to believe that the release of such information may jeopardize an ongoing criminal investigation. If such information is requested, the request shall be routed to the Special Duty Investigations Unit Supervisor for evaluation. Once evaluated, the Special Duty Unit Supervisor shall provide the requested information, unless doing so would compromise an active criminal investigation or compromise the health or safety of the minor.

Employees must observe strict compliance with the rules of a Department approved gang intelligence database regarding release of information from that database.

421.7 CRIMINAL STREET GANGS

Information from the temporary criminal street gang participant files may only be furnished to Department personnel and other public law enforcement agencies on a need-to-know basis. This means information that may be of use in the prevention of gang-related criminal activity or

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information concerning the investigation of gang-related crimes shall only be released to members of this Department and other law enforcement agencies.

Information from any Department approved gang intelligence file must only be released in compliance with the rules for that particular database.

421.8 TRAINING

Suspicious incidents, information reports and criminal incidents that appear to be criminal street gang related shall be documented on a report form and shall at minimum include the following:

(a) A description of any document, statements, actions, dress or other information that would tend to support the officer's belief that the incident may be related to the activities of a criminal street gang.

(b) Whether any photographs were taken and a brief description of what they depict.

(c) What physical evidence, if any, was observed, collected or booked.

(d) A specific request to that a copy of the report be routed to the Special Duty Unit.

(e) Officers completing a field interview (FI) card under the guidelines above shall photocopy the card and deliver it to the Special Duty Unit.

Any photographs taken or evidence collected shall be booked in accordance with current evidence booking procedures.

421.8.1 SHARED GANG DATABASE TRAINING

The Department should ensure that members who are authorized users of a shared gang database receive the required training from the California Department of Justice (DOJ) or an instructor certified by the DOJ that includes comprehensive and standardized training on the use of shared gang databases, and any other associated training required. (Penal Code § 186.36; 11 CCR 751.6).

421.9 REVISIONS

Enacted: December 17, 2007

Revised: August 19, 2008

Revised: July 8, 2009

Revised: February 7, 2010

Revised: April 22, 2014

Revised: September 19, 2014

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Revised: January 12, 2017

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Criminal Organizations

Revised: January 26, 2018

Revised: June 3, 2019

Revised: December 28, 2020

Revised: February 9, 2021

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Watch Commanders

422.1 PURPOSE AND SCOPE

When a Patrol Division Lieutenant is on-duty, he/she is the Watch Commander. When a Lieutenant is not on-duty, the on duty senior sergeant functions as the Watch Commander. In addition, when a Patrol Supervisor becomes aware of an incident or responsibility that arises wherein the Watch Commander is responsible to act or make a decision, the Patrol Supervisor has the authority and duty to act in that role until relieved by the on-duty Lieutenant.

422.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 11.3.1

422.2 DESIGNATION AS ACTING WATCH COMMANDER

When a Lieutenant is unavailable for duty as Watch Commander, in most instances the senior qualified sergeant shall be designated as acting Watch Commander. This policy does not preclude designating a less senior sergeant as an acting Watch Commander when operational needs require or training permits.

422.3 REVISIONS

Enacted: December 17, 2007

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Revised: May 23, 2016

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Mobile Digital Terminal Use

423.1 PURPOSE AND SCOPE

The Mobile Digital Terminal (MDC) accesses confidential records from the State of California, Department of Justice and Department of Motor Vehicles databases. Employees using the MDC shall comply with all appropriate federal and state rules and regulations.

423.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.3.7

423.1.2 INCORPORATED MANUAL SECTIONS

This policy incorporates and applies the Information Technology Use policy in this section pertaining to computer usage and security to the MDC.

423.2 MDT USE

The MDT shall be used for official police communications only. Messages that are of a sexual, racist, or offensive nature, or otherwise critical of the Department or any member of the Department are strictly forbidden.

Messages may be reviewed by supervisors at any time without prior notification. Employees generating or transmitting messages not in compliance with this policy are subject to discipline. MDT use is also subject to the Information Technology Use policy.

All calls dispatched to patrol units should be communicated by voice and MDT unless otherwise authorized by the Watch Commander or as otherwise noted in the Tactical Dispatching and Transmissions procedure.

Members should also refer to the Code 66 Dispatching procedure for additional guidelines.

423.2.1 USE WHILE DRIVING

Use of the MDT by the vehicle operator should generally be limited to times when the vehicle is stopped. When the vehicle is in motion, the operator should only attempt to read messages that are likely to contain information that is required for immediate enforcement, investigative or safety needs.

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.

423.2.2 DOCUMENTATION OF ACTIVITY

MDC's and voice transmissions are used to record the officer's daily activity. To ensure the most accurate recording of these activities, the following are required:

(a) All contacts or activity shall be documented at the time of the contact;

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(b) Whenever the activity or contact is initiated by voice, it shall be entered into the Computer Aided Dispatch (CAD) system by a dispatcher;

(c) Whenever the activity or contact is not initiated by voice, the officer shall record it on the MDC.

423.2.3 STATUS CHANGES

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted either verbally over the police radio or through the MDC system.

Officers responding to in-progress calls shall advise changes in status verbally over the radio to assist other officers responding to the same incident.

Other changes in status may be entered by depressing the appropriate keys on the MDC's.

423.3 MDT CONSIDERATIONS

423.3.1 NON-FUNCTIONING MDT

Whenever possible, officers will not use units with malfunctioning MDC's. Whenever officers must drive a unit in which the MDC is not working, they shall notify the Communications Center. It shall be responsibility of the Communications Center to record all information that will then be transmitted verbally over the police radio.

423.3.2 BOMB CALLS

When investigating reports of possible bombs, officers will turn off their MDC's. Operating the MDC may cause some devices to detonate.

423.4 REVISIONS

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Revised: July 8, 2009

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Revised: May 23, 2016

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Medical Marijuana

424.1 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 medicinal marijuana.

424.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

424.1.2 DEFINITIONS

Definitions related to this policy include:

Cardholder - A person issued a current identification card.

Compassionate Use Act (CUA) (Health and Safety § 11362.5) - California law intended to provide protection from prosecution to those who are seriously ill and whose health would benefit from the use of marijuana in the treatment of illness for which marijuana provides relief. The CUA does not grant immunity from arrest but rather provides an affirmative defense from prosecution for possession of medical marijuana.

Identification Card - A valid document issued by the State Department of Health Services to both persons authorized to engage in the medical use of marijuana and also to designated primary caregivers.

Medical Marijuana - Marijuana possessed by a patient or primary caregiver for legitimate medical purposes.

Medical Marijuana Program (MMP) (Health and Safety § 11362.7 et seq.) - California laws passed following the CUA to facilitate the prompt identification of patients and their designated primary caregivers in order to avoid unnecessary arrests and provide needed guidance to law enforcement officers. MMP prohibits arrest for possession of medical marijuana in certain circumstances and provides a defense in others.

Patient - A person who is entitled to the protections of the CUA because he/she has received a written or oral recommendation or approval from a physician to use marijuana for medical purposes or any person issued a valid identification card.

Primary Caregiver - A person designated by the patient, who has consistently assumed responsibility for the patient's housing, health or safety, who may assist the patient with the medical use of marijuana under the CUA or the MMP (Health and Safety Code § 11362.5; Health and Safety Code § 11362.7).

Statutory Amount - No more than eight ounces of dried, mature, processed female marijuana flowers ("bud") or the plant conversion (e.g., kief, hash, hash oil), and no more than six mature or 12 immature marijuana plants (roots, stems and stem fibers should not be considered).

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424.2 POLICY

It is the policy of the Hayward 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 Hayward Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

424.2.1 DESTRUCTION OF EXCESS QUANTITIES OF SUSPECTED MARIJUANA

Pursuant to Health & Safety Code § 11362, the following requirements must be met before any gross amounts of suspected marijuana and/or marijuana plants (minimum 2 pounds or more) may be destroyed:

(a) At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed. These samples shall be in addition to the 2 pounds required above. When the suspected controlled substance consists of growing or harvested marijuana plants, at least one 2 pound sample (which may include stalks, branches, or leaves) and five representative samples consisting of leaves or buds shall be retained for evidentiary purposes from the total amount of suspected controlled substances to be destroyed.

(b) Always photograph and when possible videotape the total amount of the suspected controlled substance to be destroyed.

(c) The total gross weight of the suspected marijuana and/or marijuana plants must be determined. This can be determined either by actually weighing the suspected marijuana or by estimating that weight after dimensional measurements of the total suspected marijuana grow.

Property and Evidence Unit personnel will facilitate the destruction of any suspected marijuana and/or marijuana plants that exceeds two pounds. The Watch Commander or his/her designee will contact the Property and Evidence Unit Supervisor when it is determined that the amount of marijuana to be seized exceeds two pounds and the above described steps have been completed.

424.3 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.

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(c) Investigations when a medicinal claim is made by a non-cardholder.

424.3.1 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.

424.3.2 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.

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.

424.3.3 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).

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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).

424.3.4 ADDITIONAL CONSIDERATIONS

Officers should consider the following when investigating an incident involving marijuana possession, delivery, production, or use:

(a) Because enforcement of medical marijuana laws can be complex, time consuming, and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:

1. The suspect has been identified and can be easily located at a later time.
2. The case would benefit from review by a person with expertise in medical marijuana investigations.
3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.
4. Other relevant factors, such as available [department/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

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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.

424.3.5 EXCEPTIONS

This policy does not apply to, and officers should consider taking enforcement action for the following:

(a) Persons who engage in illegal conduct that endangers others, such as driving under the influence of marijuana in violation of the Vehicle Code (Health and Safety Code § 11362.5).

(b) Marijuana possession in jails or other correctional facilities that prohibit such possession (Health and Safety Code § 11362.785).

(c) Smoking marijuana (Health and Safety Code § 11362.79):

1. In any place where smoking is prohibited by law.
2. In or within 1,000 feet of the grounds of a school, recreation center or youth center, unless the medical use occurs within a residence.
3. On a school bus.
4. While in a motor vehicle that is being operated.
5. While operating a boat.

(d) Use of marijuana by a person on probation or parole, or on bail and use is prohibited by the terms of release (Health and Safety Code § 11362.795).

424.3.6 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).

424.4 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.

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424.5 PROPERTY AND EVIDENCE BUREAU SUPERVISOR RESPONSIBILITIES

The Property and Evidence Bureau Supervisor should ensure that marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed pending any charges and without a court order. The Property and Evidence Bureau Supervisor is not responsible for caring for live marijuana plants.

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Property and Evidence Bureau Supervisor should, as soon as practicable, return to the person from whom it was seized any useable medical marijuana, plants, drug paraphernalia or other related property.

The Property and Evidence Bureau Supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Criminal Investigations Bureau Supervisor.

424.6 REVISIONS

Enacted: December 17, 2007

Revised: August 19, 2008

Revised: February 18, 2009

Revised: July 8, 2009

Revised: February 7, 2010

Revised: March 16, 2011

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Revised: May 23, 2016

Revised:March 3, 2017

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Revised: February 11, 2019

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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 Hayward Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

425.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 17.5.4, 41.3.8

425.2 DEFINITIONS

Digital Audio Recorder (DAR) – A device individually worn by employees that can capture audio when activated by the employee.

Body Worn Camera (BWC) – A device individually worn by employees that can capture audio and video when activated by the employee.

Digital Evidence Management System (DEMS) – A management system designed to digitally collect, store, secure, disseminate and purge recorded media. The digital recordings are accessible to authorized personnel and maintain an audit trail of user activity.

425.3 POLICY

Employees shall only use a department-issued DAR or BWC. All video and/or audio recordings created while on duty, to include photos of crime scenes, traffic accidents, arrests, subject stops, traffic stops, prisoner and witness interviews, evidence, and any other daily activity are the property of the Hayward Police Department. Employees shall not mix work related recordings with their personal information or personal recordings. Additionally, employees shall not use department-issued video or audio recording devices and recording media for personal use.

Employees shall utilize their DAR and BWC in accordance with the provisions of this policy to ensure the proper and most effective use of both devices.

Except for official law enforcement related purposes, duplication or dissemination of any recording outside the Hayward Police Department is strictly prohibited without specific written authorization of the Chief of Police or his/her designee.

425.4 OFFICER RESPONSIBILITIES

Prior to going into service, each uniformed officer will be responsible for making sure that he/she is equipped with a department-issued DAR or BWC in good working order. The device shall be sufficiently charged and tested for proper function. Officers shall report malfunctions, damage, loss or theft of their recording devices to their supervisor prior to going into service.

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In regard to BWCs, uniformed officers shall wear the recorder on their person in a secured fashion and in such a way to provide an unobstructed camera view of officer/citizen contacts. Officers shall use an approved mount to secure the BWC to their uniform.

By the conclusion of the officer's shift, the officer shall upload the BWC recording(s) to the DEMS to include the appropriate ID (citation or incident number), TITLE (abbreviated description of the footage), and CATEGORY. Officers shall follow upload procedures pursuant to this policy. In the same manner, at the conclusion of the officer's shift, DAR recordings shall be uploaded into the PUMA Management System.

Officers shall document the use of DARs or BWCs in any associated report for evidentiary purposes. In the event an officer fails to record an incident as required by this policy or the recording device malfunctions, the officer shall document the reason(s) in their associated report and on the appropriate form for record keeping. He/she shall submit the form to his/her supervisor as soon as practical.

425.4.1 NON-UNIFORMED RESPONSIBILITY

Any officer assigned to non-uniformed positions may carry a department-issued DAR or BWC at any time the officer believes that such a device may be beneficial to the situation. When a non-uniformed officer works a uniformed shift, he/she shall wear and use a Department-issued DAR or BWC in accordance with this policy.

425.4.2 TRAINING

Officers must complete an agency-approved training to ensure proper use and operations. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance and to incorporate changes, updates or other revisions in policy or equipment.

425.5 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.

425.6 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.

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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, 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, HPD 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 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.

425.6.1 SUPERVISOR RESPONSIBILITIES

Supervisors should take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

Supervisors shall ensure proper performance pursuant to this policy regarding DARs and BWCs. Supervisors shall ensure that employees properly document the activation of their DAR or BWC in the associated report. In cases where the officer's DAR or BWC was not activated pursuant to this policy, the supervisor is expected to ensure proper documentation by the employee of the incident on the appropriate form and submit the form to the IA manager.

When improper use of the DAR or BWC becomes apparent, supervisors shall document the officer's policy violation accordingly based on the Standards of Conduct and Evaluation of Employees policies.

Supervisors shall work to promptly address any technical issues as soon as practical that may arise with the recording devices. DARs or BWCs that are malfunctioned, damaged, lost or stolen shall be replaced prior to the officer going into services or as soon as practicable.

425.7 OPERATING PARAMETERS

Penal Code § 632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation was private or confidential, however Penal Code § 633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation, as follows:

(a) No member of this Department may surreptitiously record a conversation or video footage of any other member of this department without the expressed knowledge and consent of all parties. Nothing in this section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code § 3303(g).

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(b) Officers may surreptitiously record any conversation with or video footage of an individual, including another member of this department, during a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation.

1. For the purpose of this policy, any officer contacting an individual suspected of violating any law or during the course of any official law enforcement related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with members of this Department conducted solely for administrative purposes.

Officers that are present during a YFSB counseling session shall not record any portion of that session without the knowledge of the counselor and prior approval from a YFSB supervisor or sworn supervisor.

All on-scene officers (inclusive of initiating and witness officers) shall activate their audio recorders or cameras pursuant to this policy.

Personnel are not required to obtain consent from an individual when:

(a) In a public place,

(b) In a location where there is no reasonable expectation of privacy and the officer is not conducting a criminal investigation.

425.7.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Members of the [Department/Office] may surreptitiously record any conversation during 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.

425.7.2 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.

425.7.4 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).

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425.8 REQUIRED ACTIVATION AND PROHIBITED USE OF PORTABLE RECORDERS

At no time should an employee jeopardize his/her safety in order to activate a recording device or change the recording media. If an employee's safety is in jeopardy, he/she shall activate their recording device as soon as practicable after the officer safety issue has been addressed.Officers shall activate their DAR or BWC and record contacts under the following circumstances/situations:

(a) All priority 1 and 2 dispatched calls for service (prior to arrival on scene)

(b) All self-initiated contacts. Whenever possible, audio or video recording devices shall be activated prior to any self-initiated activity or field contact. All other assisting officers shall also activate their BWC prior to arriving to the scene of the incident.

(c) When respond ing to any in-progress incident. Whenever possible, DAR or BWC devices shall be activated prior to arrival at any in-progress incident. All other assisting officers shall also activate their DAR or BWC devices prior to arrival at any in-progress incident.

(d) All searches including, but not limited to, people, vehicle and buildings. When executing a search warrant, a parole or probation search, or consent search officers shall record the "Knock and Notice" with their DAR or BWC. Officers shall record any conversation with the occupants.

(e) All officers involved in K-9 deployment, searches and audible warning of a canine deployment.

(f) Any foot pursuit or vehicle pursuits: primary, secondary officers and other authorized officers.

(g) All Code 3 driving and/or responses.

(h) Officers assigned to crowd control, protests or mass arrest incidents.

(i) Suspect, Witness and victim statements; for use of force incidents this will include witness attempts.

U) Transports involving prisoners, suspects, victims, witnesses or any person involved in the investigation.

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(k) Any call for service or field contact where the officer reasonably believes the contact may become adversarial (e.g. domestic disturbances, contacts with mentally ill subjects, etc) or where the contact becomes adversarial after an officer's initial contact.

(l) In circumstances where the officer reasonably believes the recorded footage may contain evident iary value.

(m) SRU personnel l (members of the negotiation, entry/arrest, perimeter team) engaged in an active tactical operation or enforcement encounter.

If multiple members of the Department are working together, all involved members shall utilize their cameras with respect to this policy. Members shall not coordinate or otherwise decide to use only one camera to capture the incident.

Members shall 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 shall be considered using this same criterion. Recording shall resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

Other than at the conclusion of the contact or investigation, personnel may deactivate in places where there is a reasonable expectation of privacy or in circumstances where the audio recorder or camera may prevent them from obtaining information in relation to an investigation. Instances where personnel may deactivate include, but are not limited to:

(a) During interviews involving sexual assault victims,
(b) In the presence of an explosive device,
(c) Inside hospital emergency rooms and other medical facilities,
(d) In tactical planning situations;
(e) While in a police facility.

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.

425.8.1 DETENTION FACILITY

Members assigned to the HPD jail shall activate their BWC's in accordance with the Required Activation (4 25.8), as well as while in performance of the following duties:

1. Any time an inmate is removed or escorted from their cell or holding area
2. Entering a cell, or holding area, occupied by an inmate. These situations include, but not limited to:

    a. Conducting a count
    b. Offering and service of meals
    c. Contacting an inmate who is inside their cell, including conversations through the window
    d. Movement of a prisoner, examples include but not limited to, visitation, cell changes, ect.
    e. Medical emergencies
    f. Any other inmate contact where recording is not otherwise prohibited

3. Processing of new arrestees, including the general medical screening questionnaire
4. Searches of a cell or holding area
5. During transportation of inmates, including on-loading and off-loading of transportation vehicles
6. Members shall NOT intentionally record inmates while conducting a strip search, while an inmate is speaking with their attorney, or during an inmate's use of a toilet or shower; unless circumstances arise which dictate the need for BWC activation, such as the inmate becoming uncooperative and/or resistive during the contact, or other situations where recording this contact becomes reasonably necessary.

425.8.2 ANIMAL CONTROL SERVICES

Members assigned to the HPD animal services shall activate their BWC's in accordance with the Required Activation (425.8), as well as while in performance of the following duties:

1. All calls for service and investigations requiring any field contact

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2. High priority calls for service with the exception of stray/injured animals, or wildlife rescues
3. Capture of aggressive animals
4. In-field euthanasia
5. In shelter contact related to case/incident investigations and any issuance of Notice to Comply, Citation s or Orders
6. Whenever assisting a sworn officer
7. Circumstances where the employee reasonably believes the recorded footage may contain evidentiary value

425.9 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.

425.9.1 RETENTION REQUIREMENTS

All recordings shall 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.

425.10 POST-ACTIVATION PROCEDURES

Any time an employee records a contact, which constitutes evidence in a criminal case, the employee shall cross-reference the associated case number on the recording under the "ID" column and in the associated police report. In all cases of activation, the employee shall identify the appropriate category of retention.

When employees activate a recording device during the performance of their duties, the recording media shall be uploaded at the conclusion of their shift to the DEMS or the PUMA Management System.

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425.11 RELEASE OF RECORDINGS

Recordings made using portable recording devices pursuant to this policy are department records and may only be released as provided in the Release of Records and Information Policy or for other authorized legitimate department business purposes.

425.12 RETENTION OF RECORDING MEDIA

BWC and DAR recordings shall be retained in the DEMS or PUMA Management System where they are accessible for review and use strict to the guidelines pursuant to this policy. Access to recordings is automatically logged and can be audited. It should be clear that DEMS or the PUMA Management System will not allow for recordings to be manipulated or destroyed. Accidental recordings may be deleted at the request of the recording officer. Requests to delete accidental footage shall be approved by the Division Commander/Watch Commander after it has been proven that the recording does not contain any evidentiary value.

Recordings that contain evidentiary value shall be retained in the same manner as any other evidence gathered during a criminal investigation. Recordings that contain administrative or evidentiary value shall be retained for up to five years. These recordings include the following cases:

(a) Involving reportable use of force

(b) Leading to a detention or arrest

(c) Administrative or criminal investigations

For all non-criminal recordings when it comes to DEMS, the retention of recording media will be 90 days provided that it remains unassociated to any criminal or administrative investigations.

For all non-criminal recordings when it comes to the PUMA Management System, the retention of recording media will be 90 days provided that it remains unassociated to any criminal or administrative investigations.

425.13 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource. However, 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, 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 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.

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(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 Release of Records and Information Policy.

425.14 AUTHORIZED REVIEW AND USE OF RECORDED MEDIA FILES

All recordings are the property of the Hayward Police Department and are not to be released outside the agency without prior written approval or court order or subpoena. Audio or video recordings shall only be reviewed or used for internal or external investigations of misconduct or where there is reasonable suspicion that a recording contains evidentiary value. Authorized groups may have access to review or use recorded media files on a right to know, need to know basis. The following groups include:

(a) By a supervisor or the Internal Affairs Unit in response to a personnel complaint, to investigate a violation of policy by an officer, to use for training purposes or to ensure proper use of the DAR or BWC per this policy. Managers and supervisors shall document and forward to the Patrol Commander a quarterly audit of BWC footage; the quarterly audit shall review footage from at least two randomly selected personnel. Managers and supervisors shall notify employees when a random compliance audit is completed. Internal Affairs investigations and personnel complaints do not constitute an audit.

(b) By the personnel who originally recorded the incident. Members shall not use the fact that a recording was made as a reason to write a less detailed report. Employees may review only their own recordings, unless they have received prior permission from their division commander to review other available recordings, as it relates to:

- Prior to preparing written reports and/or statements relevant to any incident to help ensure accuracy and consistency of accounts
- Prior to courtroom testimony or for courtroom presentation
- Officer-involved shootings
- In-custody deaths

(c) Pursuant to lawful process or by criminal investigators or court personnel authorized to review evidence in a related case or to aid in an investigation.

(d) By media personnel with the written permission of the Chief of Police or authorized designee. Recordings that unreasonably violate a person’s privacy or sense of dignity shall not be publicly released unless disclosure is required by law or order of the court.

(e) By the City Attorney or his/her designee through permission by a Division Commander.

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule.

In the absence of extenuating circumstances, an individual employee's recording shall not be viewed by another employee except via the share feature within Evidence.com and only after supervisor approval has been given.

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425.15 SYSTEM ADMINISTRATOR RESPONSIBILITIES

The System Administrator is designated by the Chief of Police and has oversight responsibilities to include, but not limited to, the following:

(a) Operation and user administration of the system

(b) System evaluation

(c) Training

(d) Policy and procedure review and evaluation

(e) Coordination with IT regarding system related issues

(f) Ensure recorded files of evidentiary value are secured and maintained for a minimum of one year. Ensure all other routine files are secure and maintained for 90 days.

(g) Ensure recorded files are reviewed and released in accordance with federal, state, and local statutes and the City of Hayward/Hayward Police Department retention policy.

425.16 COORDINATOR

The Chief of Police or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of portable audio/video recording devices and the storage of recordings, including (Penal Code § 832.18):

(a) Establishing a system for 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.

(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.

425.17 RETENTION OF RECORDINGS

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

(a) Incident involving use of force by an employee

(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 Hayward Police Department

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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).

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).

425.17.1 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.

425.18 REVISIONS
Enacted: December 17, 2007

Revised: February 18, 2009

Revised: July 8, 2009

Revised: April 25, 2012

Revised: April 9, 2013

Revised: July 9, 2013

Revised: November 3, 2014

Revised: March 31, 2015

Revised: May 23, 2016

Revised: February 28, 2017

Revised:September 21, 2017

Revised:October 16, 2017

Revised March 30, 2018

Revised: June 7, 2020

Revised: October 23, 2020

Revised: February 9, 2021

Revised: June 21, 2021

Revised: March 9, 2023

March 10, 2023

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Bicycle Patrol Operations

426.1 PURPOSE AND SCOPE

Bicycle Patrol Operations was established to augment police services and enhance patrol efforts in the community. Bicycle patrol has been shown to be an effective way to increase officer visibility in congested areas and their quiet operation can provide a tactical approach to crimes in progress. Bicycle operations are also effective in monitoring various city events and other non-enforcement community policing efforts and assignments (i.e.; parades, community and special events, etc.).

For the purpose of this policy, the term "officers" includes all trained and approved Hayward Police Department sworn ranks, reserve ranks, professional staff and civilian personnel.

426.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 17.5.1, 17.5.2, 17.5.3 and 46.1.8.

426.2 POLICY

The purpose of this policy is to provide guidelines for the usage and effective operation of the patrol bicycle. Patrol bicycles may be used for regular patrol, traffic enforcement, parking control, special events, school patrol, and downtown patrol. The use of the patrol bicycle will emphasize an officer's mobility and visibility to the community.

Requests for specific deployment of bicycles shall be coordinated through the Bicycle Operations Supervisor and/or the Watch Commander, as outlined in this policy. Patrol bicycles may be deployed to any area at all hours of the day or night, according to HPD needs and as staffing levels allow.

Bicycle officers will obey all laws pertaining to the operation of bicycles, as outlined in the California Vehicle Code. While using a patrol bicycle, Bicycle officers will only perform duties within and defined by their particular job classification and are to not to operate outside of it.

426.3 BICYCLE PATROL OPERATIONS SUPERVISOR

The Bicycle Operations supervisor will be selected from the rank of Sergeant by the Patrol Division Commander or his/her designee.

The Bicycle Operations supervisor shall have the responsibility for the following:

- Organizing and documenting bicycle patrol training to designated employees and volunteers.
- Inspecting and maintaining inventory of patrol bicycles and program equipment.
- Scheduling maintenance and repairs of patrol bicycles.
- Evaluating performance of Bicycle officers.
- Coordinating activities within the Patrol and other Divisions.

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- Other activities as required to maintain the efficient operation of the Bicycle Operations.

In the absence of the Bicycle Operations supervisor, the on-duty Watch Commander can review and authorize requests for specific deployment of bicycles as circumstances dictate.

426.4 TRAINING

Employees and volunteers that have been identified by their respective Division Commander and the Bicycle Operations Supervisor as potential operators of a patrol bicycle must successfully complete the 10-hour HPD Bicycle course or have successfully completed a California P.O.S.T. certified Basic Bicycle Operations training course before utilizing a bicycle. Thereafter, all Bicycle officers whether actively or inactively serving as a Bicycle Unit should receive yearly in-service training during the Department's annual qualifications training to improve skills and refresh safety, heath, and operations procedures.

The 10-hour HPD Bicycle course will minimally include the following:

- Bicycle patrol strategies
- Bicycle safety and accident prevention
- Operational tactics using bicycles

In addition, sworn bicycle officers will be required to qualify during the Department's annual qualifications training with their duty firearm while wearing the approved bicycle safety equipment, as outlined in this policy.

426.5 CARE AND USE OF PATROL BICYCLES

Officers will be assigned and/or check out a specially marked and equipped patrol bicycle.

Bicycles utilized for bicycle patrol shall be primarily black or white in color with a "POLICE" decal affixed to each side of the frame and/or the bicycle's saddlebags. Every such bicycle shall be equipped with front and rear reflectors front lights and a siren/horn satisfying the requirements of Vehicle Code § 2800.1(b).

They shall also be equipped with a rear rack and/or saddle bag(s) sufficient to carry all necessary equipment as required by the classification of the operator it is assigned to.

Each bicycle gear bag shall include a first aid kit, tire pump, repair tool, tire tube, security lock, equipment information, and use manuals. These items are to remain with/on the bicycle at all times.

Each bicycle shall be equipped with a steady or flashing blue warning light that is visible from the front, sides, or rear of the bicycle. (Vehicle Code § 21201.3)

Bicycle officers shall conduct an inspection of the bicycle and equipment prior to use to insure proper working order. Officers are responsible for the routine care and maintenance of their assigned or checked out equipment (e.g., tire pressure, chain liberation, overall cleaning). Once done, the bicycle shall be returned clean, fully stocked and ready for the next tour of duty.

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The Bicycle Operations supervisor shall make sure that bi-yearly maintenance is performed by a Department approved repair shop/technician. Evidence of such maintenance shall be maintained by the Bicycle Operations supervisor.

Officers shall not modify the patrol bicycle, remove, modify or add components except with the expressed approval of the Bicycle Operations supervisor.

Vehicle bicycle racks shall be available should the officer need to transport the patrol bicycle. Due to possible component damage, transportation of the patrol bicycle in a trunk or on a patrol car push-bumper is strongly discouraged.

Bicycles shall be properly secured when not in the officer's immediate presence.

426.6 UNIFORMS AND EQUIPMENT

Bicycle Officers are required to wear the following safety equipment:

- Department issued body armor
- Approved bicycle specific helmet
- Eye protection
- Bike gloves
- Department issued or similar police whistle

Bicycle Officers will wear the approved uniform outlined in the Uniform Regulations Policy.

426.7 OFFICER RESPONSIBILITY

Officers must operate the bicycle in compliance with the Vehicle Code under normal operation. Sworn Officers may operate the bicycle without lighting equipment during hours of darkness when such operation reasonably appears necessary for officer safety and tactical considerations. Sworn Officers must use caution and care when operating the bicycle without lighting equipment.

Sworn Officers are exempt from the rules of the road under the following conditions (Vehicle Code § 21200(b)(1)):

- In response to an emergency call
- While engaged in rescue operations
- In the immediate pursuit of an actual or suspected violator of the law

426.8 PURSUIT OF A VEHICLE

Pursuant to the Vehicle Pursuit Policy, a sworn Bicycle Officer may initiate vehicular pursuits and respond to emergency calls in accordance with Vehicle Code § 21200(b). If a sworn Bicycle Officer becomes involved in a vehicle pursuit, he/she shall terminate their involvement immediately when replaced by the approved number of motorized police vehicles.

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426.9 STORAGE OF BICYCLES

Hayward Police patrol bicycles will be stored in the "HPD Bicycle Shed" which is located in the southwest corner of the rear parking lot. Repair tools will also be stored in the shed. The shed will be locked at all times and a key will be maintained in the Other's office key box.

426.10 REVISIONS

Enacted: April 9, 2013

Revised: September 19, 2014

Revised: May 23, 2016

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Homeless Persons

427.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that personnel understand the needs and rights of the homeless and to establish procedures to guide officers during all contacts with the homeless, whether consensual or for enforcement purposes. The Hayward Police Department recognizes that members of the homeless community are often in need of special protection and services. The Hayward Police Department will address these needs in balance with the overall mission of this Department. Therefore, officers will consider the following when serving the homeless community.

427.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

427.1.2 POLICY

It is the policy of the Hayward to provide law enforcement services to all members of the community, while protecting the rights, dignity and private property of the homeless. Homelessness is not a crime and members of this Department will not use homelessness solely as a basis for detention or law enforcement action.

427.2 HOMELESS COMMUNITY LIAISON

The Chief of Police may designate members of this Department to act as the Homeless Liaison Officers. The responsibilities of the Homeless Liaison Officers include the following:

(a) Maintain and make available to all Department employees a list of assistance programs and other resources that are available to the homeless.

(b) Meet with social services and representatives of other organizations that render assistance to the homeless.

(c) Maintain a list of the areas within and near this jurisdiction that are used as frequent homeless encampments.

(d) Remain abreast of laws dealing with the removal and/or destruction of the personal property of the homeless. This will include:

1. Proper posting of notices of trespass and clean-up operations.
2. The Hayward Police Department, through utilization of the Homeless Liaison Officers, may facilitate property removal (prior to the clean-up) by use of local Homeless Advocacy Groups to facilitate property removal/relocation. On the date of clean-up, any remaining property will be removed as debris pursuant to established procedures, protocols and statutes.

(e) May be present during any clean-up operation conducted by this Department involving the removal of personal property of the homeless to ensure that the rights of the homeless are not violated.

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(f) Develop training to assist officers in understanding current legal and social issues relating to the homeless.

427.3 FIELD CONTACTS

Officers are encouraged to contact the homeless for purposes of rendering aid, support and for community-oriented policing purposes. Nothing in this policy is meant to dissuade an officer from taking reasonable enforcement action when facts support a reasonable suspicion of criminal activity. However, when encountering a homeless person who has committed a non-violent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions to problems that may relate to the homeless, such as shelter referrals and counseling in lieu of physical arrest.

Officers should provide homeless persons with resource and assistance information whenever it is reasonably apparent that such services may be appropriate.

427.3.1 OTHER CONSIDERATIONS

Homeless members of the community will receive the same level and quality of service provided to other members of the community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Officers should consider the following when handling investigations involving homeless victims, witnesses or suspects:

(a) Document alternate contact information. This may include obtaining addresses and phone numbers of relatives and friends.

(b) Document places the homeless person may frequent.

(c) Provide homeless victims with victim/witness resources when appropriate.

(d) Obtain statements from all available witnesses in the event that a homeless victim is unavailable for a court appearance.

(e) Consider whether the person may be a dependent adult or elder, and if so, proceed in accordance with the Senior and Disability Victimization Policy.

(f) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.

(g) Consider whether a crime should be reported and submitted for prosecution, even when a homeless victim indicates that he/she does not desire prosecution.

427.4 PERSONAL PROPERTY

The personal property of homeless persons must not be treated differently than the property of other members of the public. Officers should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested or otherwise removed from a public place, officers should make reasonable accommodations to permit the person to lawfully secure his/her personal

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property. Otherwise, the personal property should be collected for safekeeping. If the arrestee has more personal property than can reasonably be collected and transported by the officer, a supervisor should be consulted. The property should be photographed and measures should be taken to remove or secure the property. It will be the supervisor's responsibility to coordinate the removal and safekeeping of the property.

Officers should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor or the department Homeless Liaison Officer. When practicable, requests by the public for clean-up of a homeless encampment should be referred to the Homeless Liaison Officer.

Officers who encounter unattended encampments, bedding or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property and should inform the department Homeless Liaison Officer if such property appears to involve a trespass, blight to the community or is the subject of a complaint. It will be the responsibility of the Homeless Liaison Officer to address the matter in a timely fashion.

427.5 MENTAL ILLNESS AND MENTAL IMPAIRMENT

Some homeless persons may suffer from a mental illness or a mental impairment. Officers shall not detain a homeless person under a mental illness commitment unless facts and circumstances warrant such a detention (see the Crisis Intervention Incidents Policy).

When a mental illness hold is not warranted, the contacting officer should provide the homeless person with contact information for mental health assistance as appropriate. In these circumstances, officers may provide transportation to a mental health specialist if requested by the person and approved by a supervisor.

427.6 ECOLOGICAL ISSUES

Sometimes homeless encampments can impact the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to notify other appropriate agencies or Departments when a significant impact to the environment has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

427.7 REVISIONS

Enacted: August 13, 2010

Revised: April 22, 2014

Revised:August 3, 2015

Revised: May 23, 2016

Revised: June 21, 2021

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Public Recording of Law Enforcement Activity

428.1 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.

428.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

428.2 POLICY

The Hayward 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.

428.3 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 theofficers.

4. Being so close to the activity as to interfere with an officers effective communication with a suspect or witness.

c. The individual may not present an undue safety risk to the officers, him/herself or others.officers an officer

428.4 OFFICER RESPONSE

Officers should promptly request 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

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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 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.

428.5 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.

428.6 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.

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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/office]-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

428.7 REVISIONS

Enacted: November 3, 2014

Revised: May 23, 2016

Revised: February 9, 2021

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Automated License Plate Readers (ALPRs)

429.1 PURPOSE AND SCOPE

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. ALPRs are used by the Hayward Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. ALPRs may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

429.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.3.9

429.2 ADMINISTRATION OF ALPR DATA

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access shall be managed by the Support Services Division Commander. The Support Services Division Commander will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment and data.

429.2.1 ALPR ADMINISTRATOR

The Support Services Division Commander shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

(a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.

(b) Training requirements for authorized users.

(c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.

(d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.

(e) The title and name of the current designee in overseeing the ALPR operation.

(f) Working with the Custodian of Records on the retention and destruction of ALPR data.

(g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

429.3 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. [Department/Office] members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

(a) An ALPR shall only be used for official law enforcement business.

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(b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.

(c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

(d) No member of this [department/office] shall operate ALPR equipment or access ALPR data without first completing [department/office]-approved training.

(e) No ALPR operator may access [department/office], state or federal data unless otherwise authorized to do so.

(f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

429.4 DATA COLLECTION AND RETENTION

The Support Services Division Commander is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with [department/office] procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

429.5 ACCOUNTABILITY

All saved data will be closely safeguarded and protected by both procedural and technological means. The Hayward Police Department will observe the following safeguards regarding access to and use of stored data. (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

(a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Records Administrator and processed in accordance with applicable law.

(b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).

(c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

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(d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.

(e) ALPR system audits should be conducted on a regular basis.

429.6 POLICY

The policy of the Hayward Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

429.7 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

(a) The agency makes a written request for the ALPR data that includes:

1. The name of the agency.
2. The name of the person requesting.
3. The intended purpose of obtaining the information.

(b) The request is reviewed by the Support Services Division Commander or the authorized designee and approved before the request is fulfilled.

(c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

429.8 TRAINING

The Personnel and Training Administrator should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

429.9 REVISONS

Enacted: March 31, 2015

Revised: May 23, 2016

Revised: June 21, 2021

Revised: December 18, 2022

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Medical Aid and Response

430.1 PURPOSE AND SCOPE

This policy recognizes that members often encounter persons who appear to be in need of medical aid and establishes a law enforcement response to such situations.

430.2 POLICY

It is the policy of the Hayward Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

430.3 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 the Communications Center 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 the Communications Center 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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430.4 TRANSPORTING ILL AND INJURED PERSONS

Except in extraordinary cases where alternatives are not reasonably available, members should not transport persons who are unconscious, who have serious injuries or who may be seriously ill. EMS personnel should be called to handle patient transportation.

Officers should search any person who is in custody before releasing that person to EMS for transport.

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 directed to do so by a supervisor.

430.5 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.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

430.6 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, the officer should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance. Officers shall not transport an arrestee to a hospital without a supervisor’s approval.

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.

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430.7 MEDICAL ATTENTION RELATED TO USE OF FORCE

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies.

430.8 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 should identify:

- 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 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.

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430.9 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 100014; 22 CCR 100017; 22 CCR 100018).

430.9.1 AED USER RESPONSIBILITY

Supervisors who are issued AEDs should check the AED at the beginning of the shift to ensure it is charged and functioning. The case should be checked for damage and the charge light should be blinking green. Any AED that is not functioning properly will be taken out of service and given to the Personnel and Training Administrator who is responsible for ensuring appropriate maintenance.

Any officer who is provided an AED by a supervisor should check that it is charged and functioning if circumstances allow.

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 and the device placed back into service.

430.9.2 AED REPORTING

Any member using an AED will complete an incident report detailing its use. A copy of the report should be forwarded to the local EMS authority (LEMSA).

430.9.3 AED TRAINING AND MAINTENANCE

The Personnel and Training Administrator 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 100021; 22 CCR 100022; 22 CCR 100029).

The Personnel and Training Administrator 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 100021).

430.10 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION

Trained members may administer opioid overdose medication (Civil Code § 1714.22; Business and Professions Code § 4119.9).

430.10.1 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 Personnel and Training Administrator.

Any member who administers an opioid overdose medication should contact the Communications Center as soon as possible and request response by EMS.

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430.10.2 OPIOID OVERDOSE MEDICATION REPORTING

Any member administering opioid overdose medication should detail its use in an appropriate report.

The Personnel and Training Administrator will ensure that the Records Administrator is provided enough information to meet applicable state reporting requirements.

430.10.3 OPIOID OVERDOSE MEDICATION TRAINING

The Personnel and Training Administrator 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 100019 and any applicable POST standards (Civil Code § 1714.22).

430.10.4 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 case at the beginning of their shift to ensure it is serviceable and the seal is unbroken. Any medication case with a broken seal or otherwise determined to be unserviceable should be removed from service and returned to the Personnel and Training Administrator.

Insulated cases containing the medication and administration equipment shall not be left in patrol cars between shifts and shall be returned to their designated temperature-controlled storage area. They shall not be stored in the trunks of vehicles at any time to avoid heat damage to the medication.

Any member who administers an opioid overdose medication should contact the Communications Center as soon as possible and request response by EMS. This should be done prior to administering the opioid overdose medication if circumstances allow.

430.10.5 OPIOID OVERDOSE MEDICATION REPORTING

Any member administering opioid overdose medication should detail its use in an appropriate Case Report.

The approving supervisor will ensure that the case report contains enough information to meet applicable state reporting requirements. A copy of the report should be routed to the LEMSA. At a minimum, the case report shall contain the following:

(a) The name and date of birth of the subject receiving the medication.

(b) Location of the incident.

(c) Indications noted by the officer for use of the medication.

(d) The dose given and time of medication administration.

(e) Subject's response to the medication administration.

(f) Disposition of the subject, if he/she was transported to a hospital for treatment or if death was determined in the field. If death is determined it the field, then document the coroner's case number.

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430.10.6 OPIOID OVERDOSE MEDICATION TRAINING
The Personnel and Training Administrator should ensure 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 100019 and any applicable POST standards (Civil Code § 1714.22).

430.10.7 OPIOID OVERDOSE MEDICATION PROGRAM RESPONSIBILITIES
The Personnel and Training Administrator shall ensure that the medication provided to department personnel is current and undamaged. Medication will be ordered on an as needed basis through the Hayward Fire Department.

430.10.8 DESTRUCTION OF OPIOID OVERDOSE MEDICATION
The Personnel and Training Administrator shall ensure the destruction of any expired opioid overdose medication (Business and Professions Code § 4119.9).

430.10.9 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).

430.11 ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS

The Department does not use epinephrine.

Trained employees who possess certification may administer an epinephrine auto-injector for suspected anaphylaxis (Health and Safety Code 1797.197a(b);22 CCR 100019).

430.11.1 EPINEPHRINE USER RESPONSIBILITIES
Members should handle, store and administer epinephrine auto-injectors consistent with their training and the Department 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 Operations Plan.

Any member who administers an epinephrine auto-injector medication should contact the Communications Center as soon as possible and request response by EMS (Health and Safety Code § 1797.197a(b)).

430.11.1 EPINEPHRINE USER RESPONSIBILITIES
Any employee who administers an epinephrine auto-injector should contact the Communications Center as soon as possible and request response by EMS (Health and Safety Code 1797.1976a(b)).

430.11.2 EPINEPHRINE AUTO-INJECTOR REPORTING
Any member who administers an epinephrine auto-injector should detail its use in an appropriate report.

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The Personnel and Training Administrator should ensure that the Records Administrator 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)).

430.11.3 EPINEPHRINE AUTO-INJECTOR TRAINING
The Personnel and Training Administrator 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 100019.

430.12 FIRST AID TRAINING
The Personnel and Training Administrator should ensure officers receive initial first aid training within one year of employment and refresher training every two years thereafter (22 CCR 100016; 22 CCR 100022).

430.13 REVISIONS
Issued: June 28, 2018

Revised: February 11, 2019

Revised: June 7, 2020

Revised: February 9, 2021

Revised: February 10, 2023

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MOBILE EVALUATION TEAM (MET)

431.1 PURPOSE AND SCOPE

This policy provides guidelines for the administration of the Mobile Evaluation Team (MET).

431.1.1 DEFINITIONS

Definitions related to this policy include:

N/A

431.2 POLICY

The Hayward 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 MET intervention..

431.3 MET DEPLOYMENT GUIDELINES

MET will deploy under the field response model.MET should be deployed to calls for service involving individual(s) experiencing an acute mental health crisis when the scene has not been determined to be secure and there is violence or the potential for violence.MET may also be deployed to calls for service where the knowledge and/or the experience of the MET officer and/or the BHCS mental health clinician would be beneficial due to safety reasons.MET may be requested directly by HPD patrol officers, deployed by the HPD Communications Center or the BHCS Mobile Crisis Team Headquarters, or they may self-dispatch to calls for service as appropriate.

BHCS mental health clinicians will not be taken to situations where there is an imminent risk to the clinician’s safety (such as a rapidly unfolding active shooter situation).Responding MET officers and the BHCS mental health clinician will consider the totality of circumstances to identify a safe location to drop the clinician while still addressing officer safety and the needs of the general public.

(a) MET unit hours and days of deployments will be determined based on call for service data, as well as the staffing availability of the MET officers and the BHCS mental health clinicians.

(b) MET members will notify the communications center and the on-duty Watch Commander when they are available for field deployment, log on with a specified identifier, and will monitor the police radio.When responding to appropriate calls for service, the MET can serve as either a cover unit or as the primary unit depending on the nature of the call.

(c) MET generally should assume investigations responsibility in calls for service in which the only issue to be determined is whether the individual is suffering from a mental health crisis.

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(d) In calls for service in which there is a criminal violation in addition to a potential mental health issue, MET will work with the primary officer towards a resolution of the mental health issue.The primary Patrol officer shall maintain investigative responsibility for the criminal investigation.

(e) Once the situation has stabilized and the MET officer has determined that additional police resources are no longer needed, the Patrol officer(s) should return to “In-Service” status.

(f) Nothing in this procedure shall preclude the MET officer from responding to other calls for service of a critical nature.In the event that MET officers have to respond to something other than a mental health call that will take significant time, the BHCS clinician can contact MCT headquarters and request to be picked up.

431.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS

The Chief of Police should designate an appropriate Division Commander, or designee, to collaborate with mental health professionals to develop an education and response protocol.

431.5 MET OFFICER DUTIES AND RESPONSIBILITIES

The following is a list of duties and responsibilities for the officers assigned to MET.This list is not comprehensive but should serve as a general guide:

(a) Work with licensed mental health clinician employed by the Alameda County Behavioral Health Care Services in a Hayward Police Department vehicle.

(b) Respond to calls for service involving subjects experiencing a mental health crisis and other calls for service in which MET experience or knowledge would be beneficial.

(c) Conduct thorough and timely investigations and complete all appropriate supporting documentation.

(d) Conduct follow-up as needed with subjects who have been identified as possibly in need of mental health services.

(e) Follow-up on mental health care referrals made by City personnel.

(f) Assist and collaborate with other City departments with issues involving members of the unhoused community.

(g) Attend appropriate on-going training related to mental health issues, crisis resolution, de-escalation, or the other topics deemed appropriate by the MET sergeant and/or Special Operations Division captain.

(h) Be a resource to City personnel with regard to calls for service involving subjects with mental health issues.

(i) Provide appropriate training to Police personnel, in conjunction with the Personnel and Training Unit related to mental health issues, crisis resolution, de-escalation, or other topics related to the mission of MET.

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(j) Attend meetings related to the mission of MET at the direction of the MET sergeant or Special Operations captain.

(k) Other duties as assigned

431.4 MET SERGEANT DUTIES AND RESPONSIBILITIES

The following is a list of duties and responsibilities for the sergeant supervising MET.This list is not comprehensive but should serve as a general guide:

(a) Supervise the daily operation of MET in collaboration with Alameda County Behavioral Health Care Services Crisis Response Program supervisor, the Behavioral Health Coordinator, and the YFSB Administrator.

(b) Review all reports and assessments of potential follow-up to other teams.

(c) Coordinate on-going and mandatory training of MET officers.

(d) Coordinate and/or evaluate MET responses to incidents with Patrol supervisors as needed.

(e) Other duties as assigned.

431.5 BEHAVIORAL HEALTH COORDINATOR DUTIES AND RESPONSIBILITIES

The following is a list of duties and responsibilities for the Behavioral Health Coordinator.The list is not comprehensive but should serve as general guide.

(a) The Behavioral Health Coordinator will report directly to the Youth and Family Services Bureau (YFSB) Administrator and communicate regularly with the MET supervisor within the District Command Unit and the Alameda County Behavioral Health Care Services Crisis Response Program supervisor.

(b) Responsible for scheduling MET officers and Alameda County Behavioral Health Care Services mental health clinicians.

(c) Responsible for collecting data and preparing reports related to MET.

(d) Maintain liaison between Administrative Staff (YFSB) and District Command supervisors.

(e) Maintain liaison with other City departments, other City mental health response teams, non-profit organizations, and other mental health services providers.

(f) Other duties as assigned.

431.6 TRAINING

Members of MET will complete preliminary and participate in on-going specialized training in disciplines related to the mission of MET, including but not limited to:

(a) Crisis Intervention Training (CIT).
(b) Mental Health Decision Making.
(c) Interpersonal communication skills.

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(d) De-escalation techniques.

431.7 REVISIONS

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First Amendment Assemblies

433.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

433.2 POLICY

The Hayward 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.

433.3 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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433.3.1 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.

433.4 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 the Communications Center, 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.

433.5 PLANNED EVENT PREPARATION

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

433.5.1 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).

433.5.2 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.

433.5.3 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).

433.6 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.

433.7 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.

433.8 ARRESTS

The Hayward 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).

433.9 MEDIA RELATIONS

The Public 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).

433.9.1 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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433.10 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.

433.11 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, the Communications Center records/tapes

(g) Media accounts (print and broadcast media)

433.11.1 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.

433.12 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.

433.13 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.

433.13.1 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.

433.14 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).

433.15 REVISIONS

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Chapter 5 - Traffic Operations

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Traffic Function and Responsibility

500.1 PURPOSE AND SCOPE

The ultimate goal of traffic law enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on accident data, enforcement activity records, traffic volume, and traffic conditions. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in accident situations, but also in terms of traffic-related needs.

Hayward Police Department traffic law enforcement practices will include:

- Visible traffic patrol, whether area, line, or directed;
- Stationary observation, covert and overt;
- Use of roadside safety checks (checkpoints)

The use of unmarked or unconventional vehicles solely for traffic law enforcement is prohibited by California Vehicle Code § 40800.

500.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 61.1.1, 61.1.2, 61.1.3, 61.1.4, 61.1.5, 61.1.6, 61.1.8, 61.1.12, 61.3.1, 61.4.2, 82.3.3

500.2 TRAFFIC OFFICER DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the Hayward Police Department. Information provided by the California Statewide Integrated Traffic Reporting System (SWITRS) is a valuable resource for the compilation and review of 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 citizen requests, construction zones or special events.

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500.2.1 UNMARKED CARS
California Vehicle Code § 40800 prohibits the use of unmarked cars solely for the purpose of traffic enforcement.

500.2.2 CHECKPOINTS
Department members engaged in the planning and operation of checkpoints for the purpose of driving under the influence or driver's license enforcement and education shall plan and conduct such checkpoints in accordance to the established procedures.

500.2.3 TRAFFIC RECORDS
The data used to deploy traffic officers may include data stored in the Records Management System regarding traffic collision data, traffic enforcement data and roadway hazard information. The Traffic Supervisor is responsible to coordinate data distribution.

500.2.4 TRAFFIC COMPLAINT AND DATA REVIEW PROCESS
The traffic sergeant will establish a procedure for responding to traffic complaints and coordinate efforts with public works engineers. The procedure will include the collection and examination of roadway traffic data (speed, volume, time of day) and the accident data to determine the responses to complaints.

The traffic sergeant will ensure that a report is compiled, at minimum annually, that includes:

(a) Traffic collision data;

(b) Traffic enforcement activities;

(c) Traffic complaints;

(d) Analysis of enforcement activities and collisions, by location and primary collision factor to evaluate the efficacy of traffic enforcement activities.

500.3 ENFORCEMENT
Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This Department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance (Vehicle Code § 41603). The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

500.3.1 WARNINGS
Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant, especially in the case of inadvertent violations.

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500.3.2 CITATIONS

Citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

(a) Explanation of the violation or charge.

(b) Court appearance procedure including the optional or mandatory appearance by the motorist.

(c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court.

500.3.3 PHYSICAL ARREST

Physical arrest can be made on a number of criminal traffic offenses outlined in the Vehicle Code or Penal Code. These physical arrest cases usually deal with, but are not limited to:

(a) Vehicular manslaughter.

(b) Felony and misdemeanor driving under the influence of alcohol/drugs.

(c) Felony or misdemeanor hit-and-run.

(d) Refusal to sign notice to appear.

(e) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances.

500.3.4 HANDLING SPECIAL CIRCUMSTANCE - TRAFFIC LAW VIOLATIONS

Foreign Diplomats/Consular Officials will be dealt with in accordance with the Arrest or Detention of Foreign Nationals policy. Nonresident violators, members of the legislature and military personnel will be processed in the same manner as a private citizen.

Juvenile violators are processed in the same manner as adult violators.

500.3.5 UNIFORM ENFORCEMENT GUIDELINES

Officers should take enforcement action when serious violations are observed or reported. It is the intention of the Hayward Police Department to take maximum enforcement action when a threat to life and public safety are involved. The following violations are examples of serious:

- Violations involving drug/alcohol impairment
- Drivers with a suspended or revoked license
- Serious speed violations resulting in added danger to the public
- Other hazardous violations including but not limited to reckless driving and speed contests
- Multiple violations
- Violations resulting in traffic collisions

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Officers observing less serious violations are encouraged to take appropriate action. Officers should use discretion in determining enforcement action for things such as:

- Offroad vehicle violations
- Equipment violations
- Public carrier and commercial violations
- Other nonhazardous violations
- Newly enacted laws and/or regulations
- Pedestrian and bicycle violations

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.

500.4.1 REQUEST FOR RE-EXAMINATION OF A DRIVER

Routine traffic enforcement and collision investigation activities frequently lead to the discovery of drivers who have suspected incompetency, physical or mental disabilities, or other conditions that might interfere with their ability to safely operate a motor vehicle. Officers finding these circumstances may consider completing DMV form DS 427 Notice of Priority Reexamination of Driver and Request for Regular Reexamination of Driver. The DS 427 form shall be completed in conformance with the instructions contained on the form and submitted pursuant to the instructions on the form.

500.5 HIGH-VISIBILITY VESTS

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department 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.

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

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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.

500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

High-visibility vests shall be maintained in the trunk of each patrol and investigation unit, in the side box of each police motorcycle and in the saddlebag or gear bag of each police bicycle. Each vest should be stored inside the re-sealable plastic bag provided to protect and maintain the vest in a serviceable condition. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored.

A supply of high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Personnel and Training Administrator should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

500.6 ROADWAY HAZARDS AND OBSTRUCTIONS

Roadway and roadside hazards are contributing factors in many collisions. Officers should make efforts to remove hazards or warn motorists when it can be accomplished in a safe manner and with available resources.

In cases where traffic signals become inoperative, it is the general policy of this Department not to intervene. However, if a traffic signal outage is localized, officers should contact Dispatch to schedule an appropriate repair technician and/or request temporary signage.

500.7 TRAFFIC COMMITTEE

The Traffic Committee is comprised of members of the Department's Traffic Bureau, Community Policing Division, and City of Hayward Traffic Engineering Department. The committee is chaired by the Chief of Police or his designee. This body meets regularly to discuss:

(a) The handling or referring of complaints or suggestions concerning traffic engineering deficiencies; and

(b) Procedures for transmitting collision and enforcement data to local or regional traffic engineering authorities.

Department members who become aware of traffic issues, design problems, or ideas for improving traffic conditions are encouraged to pass the information on to the Traffic Sergeant or forward details to the Traffic Clerk for inclusion on the Traffic Committee Agenda.

The Traffic Safety Committee is the formal forum to insure proper action is taken to investigate traffic complaints, correct traffic deficiencies and enhance the working relationship between public

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safety and traffic engineering. In addition to this committee, the traffic unit is expected to coordinate regularly with engineering and ensure that the necessary data is shared.

500.8 REVISIONS

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Traffic Collision Reporting

501.1 PURPOSE AND SCOPE

The Hayward 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. Additional guidelines to collision scene response can be referenced in the Collision Scene Responsibilities procedure.

501.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 61.2.1, 61.2.2, 61.2.3, 83.1.1, 83.2.6

501.2 RESPONSIBILITY

The Traffic Bureau Sergeant will be responsible for distribution of the CIM. The Traffic Bureau Sergeant will receive all changes in the state manual and ensure conformity with this policy.

501.2.1 TRAFFIC OFFICER RESPONSIBILITY

The following are types of collisions where the Traffic Bureau will be the lead investigator during the times one or more are on duty:

(a) Injury collisions where at least one person involved in the collision is transported to the hospital with a serious injury or if the injury constitutes a trauma activation.

(b) A serious injury is defined as "a personal injury which results in death; dismemberment; significant disfigurement; a fracture; loss of a fetus; permanent loss of use of a body organ, member, function or system; permanent or significant limitation of use of a body organ or member, function or system; or a medically determined injury or impairment of a non-permanent nature.

(c) All collisions involving on-duty City of Hayward employees or dignitaries.

501.2.2 MAJOR ACCIDENT INVESTIGATION

The Department will maintain a Major Accident Investigation Team (MAIT). MAIT will be utilized to investigate those collisions that meet the criteria for a MAIT assignment MAIT members are trained and expected to be knowledgeable in all areas of collision investigation including collision reconstruction. MAIT should be assigned to any collision investigation that meets the below criteria:

- Any fatal collision or non-fatal collision where there is a likelihood of death, or there are grievous bodily injuries to any of the involved parties
- Any collision which results in a leak or spillage of a significant amount of any hazardous material which seriously threatens life or property
- Any serious injury collision where the primary cause or contributing factor might involve city liability
- When in opinion of the Watch Commander a MAIT response is warranted.

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In these types of events, the Watch Commander shall notify the Traffic Bureau Sergeant to relate the circumstances of the traffic collision and seek assistance from the Traffic Bureau or request MAIT assignment. In the absence of a Traffic Bureau Sergeant, the Watch Commander or any supervisor may assign any member of the MAIT team to investigate the traffic collision.

501.3 TRAFFIC COLLISION REPORTING

All traffic collision reports taken by members of this Department shall be forwarded to the Traffic Bureau for approval and data entry into the Records Management System.

The basic form of accident documentation shall be the investigation. In some situations a Summary Collision Report or Information Exchange Abbreviated Report may be completed. Documentation of investigations or reports shall be on Traffic Collision Report forms CHP § 555, 556, 555-03, and 555 page 3 as prescribed herein.

501.3.1 SUPPLEMENTAL TRAFFIC COLLISION REPORTING

All traffic collision reports taken by members from this Department requiring follow-up investigation shall be done in accordance with the Hayward Police Department Report Writing Manual.

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. Whenever there is damage to a city vehicle, a City Accident Report shall be completed and forwarded to the appropriate Division Commander. Photographs of the collision scene and vehicle damage shall be taken.

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 Hayward Police Department resulting in a serious injury or fatality, the Traffic Bureau Sergeant or the Watch Commander, may notify the California Highway Patrol for assistance.

The term serious injury is defined as any injury that may result in a fatality.

501.4.3 TRAFFIC COLLISIONS WITH OTHER CITY EMPLOYEES OR OFFICIALS

The Traffic Bureau Sergeant or on-duty Watch Commander may request assistance from the California Highway Patrol for the investigation of any traffic collision involving any City official or employee where a serious injury or fatality has occurred.

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. A Miscellaneous Report may be taken

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at the discretion of any supervisor. An exchange of information report on CHP Form § 555-03 may be taken for documentation purposes if requested.

501.4.5 TRAFFIC COLLISIONS ON ROADWAYS OR HIGHWAYS

Traffic collision reports may be taken when they occur on a roadway or highway within the city's jurisdiction. A collision shall be documented as an INVESTIGATION when one or more of the following conditions exist:

(a) When there is a death or injury to any persons involved in the collision (on or off highway).

(b) When there is personal visible injury (on or off highway) requiring transportation by ambulance non-visible injury warranting a trauma activation.

(c) When the collision results from an identifiable violation of law and collection of evidence is required to support prosecution.

(d) When the collision involves a City of Hayward vehicle or other governmental agency vehicle.

(e) When the collision involves a school bus as defined in the CIM.

(f) When the collision involves a hit and run with sufficient information or evidence for follow-up and potential prosecution at a later time.

(g) When a collision involves the release or potential release of Hazardous Materials, the Hayward Police Department will take a supporting role to the Hayward Fire Department, who is responsible for all hazardous material incidents.

501.4.6 SUMMARY COLLISION REPORT

A Collision Report CHP § 555 (Summary Cause) shall be made when one or more of the following conditions exist:

(a) When a "complaint of pain" injury results in the injured party being transported via ambulance for medical care.

(b) When collisions result in those injuries classified as "other visible injuries", as defined by the CIM, and the person was not transported for medical care.

(c) When an officer witnesses a property damage only collision and the causing violation, including DUI (Vehicle Code § 23152a), and the officer issues a traffic citation or collision notice for that violation

Narrative of Summary Cause reports shall include the following:

a. Notifications

b. Statements

c. Summary

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d. Area of Impact

e. Cause

See the Report Writing Manual for specifics.

501.5 NOTIFICATION OF TRAFFIC BUREAU SUPERVISION

Refer to Major Accident Investigation section.

501.6 CONTROLLING PROPERTY BELONGING TO COLLISION VICTIMS

When an officer at the scene of a traffic collision becomes aware of the personal private property of an incapacitated subject, said property should be taken into custody for safekeeping if that officer is not able to secure the property.

501.7 DISTURBANCES AT SCENES OF COLLISIONS

Disturbances between principals at scenes of collisions occur on occasion. Upon arriving at the scene of a collision where a disturbance between involved individuals or others is on-going, defuse the situation as appropriate. At the discretion of the officer, it may be prudent to document the circumstances of the disturbance in the corresponding collision report.

501.8 REVISIONS

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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 Hayward Police Department. Nothing in this policy shall require the Department to tow a vehicle.

502.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 1.2.4, 61.2.2, 61.2.3, 61.4.3

502.2 STORAGE AND IMPOUNDS

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 to 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 the Communications Center.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call one of the official rotational towing companies for the City of Hayward Police Department. 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 to provide reasonable safekeeping by storing the arrestee's vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high crime area).

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- Traffic related warrant arrest.

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- 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 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 UNLICENSED AND SUSPENDED/REVOKED LICENSE DRIVERS

The Hayward Police Departments approach to dealing with individuals driving without a valid driver license or driving on a suspended driver license is consistent with the Department's overall priorities of reducing crime and victimization as well as improving traffic safety.

Therefore, when a driver is found to be unlicensed or driving on a suspended/ revoked license, or is identified as being the driver at the scene of a collision, and the officer determines that a tow is warranted, the tow authority options shall be Vehicle Code § 22651(p) or 14602.6(a).

Nothing in this policy mandates that an officer tow or impound a vehicle when it is determined that the offender was driving on a suspended license or while unlicensed. There are circumstances where it would be more appropriate to allow the offender to park and secure his vehicle in order to later facilitate the movement of the vehicle by a licensed driver. If an officer decides not to tow or impound a vehicle and there are no "Community Care Taking" concerns, the officer may leave the vehicle at the scene after the liability waiver has been signed.

502.2.6 DRIVING A NON-CITY VEHICLE

Vehicles which have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

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502.2.7 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.

502.2.8 RECORDS BUREAU RESPONSIBILITY

Dispatch 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 first-class mail (Vehicle Code § 22851.3(d); Vehicle Code § 22852(a); Vehicle Code § 14602.6(a)(2)). The notice shall include the following (Vehicle Code § 22852(b)):

(a) The name, address, and telephone number of this Department.

(b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage.

(c) The authority and purpose for the removal of the vehicle.

(d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, writing, or by telephone within 10 days of the date appearing on the notice.

502.3 TOWING SERVICES

The City of Hayward Police Department periodically selects a list of firms to act as the official tow service and awards a contract to those firms. Those firms will be used in the following situations:

(a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.

(b) When a vehicle is being held as evidence in connection with an investigation.

(c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles, and the removal from the streets of vehicles obstructing traffic in violation of state or local regulations.

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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 against fraudulent claims of lost, stolen, or damaged property.

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:

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.

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(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 FROM PUBLIC AND PRIVATE PROPERTY

Removal and towing of vehicles from public and private property shall follow all California Vehicle Code requirements. Questions regarding the legality of towing a vehicle should be directed to a Traffic Bureau member or a sworn supervisor.

502.8 REVISIONS

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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.

503.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 61.4.3

503.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the Hayward Police Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code § 22650(a); Vehicle Code § 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

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.

(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. 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.

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(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.

503.3 REVISIONS

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Driving Under the Influence Enforcement Programs

504.1 PURPOSE AND SCOPE

Due to the major impact on society of driving under the influence of drugs or alcohol, the Hayward Police Department will participate and promote programs to combat drivers under the influence and make efforts to effectively deploy officers to combat this problem.

504.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 61.1.10, 61.1.11

504.2 DUI ENFORCEMENT GENERAL

Patrol and traffic officers should always be vigilant to locate and arrest drivers who are intoxicated. Watch Commanders and patrol supervisors should ensure that DUI enforcement is held in high priority in their operations.

The Traffic Supervisor is responsible to ensure efforts are made to field the appropriate resource during times of increased DUI occurrence (certain holidays), and in areas where analysis has shown a significant number of violations or DUI related collisions have occurred.

504.3 STATE AND REGIONAL DUI EFFORTS

Hayward Police Department will, when possible, participate in state and regional efforts to combat DUI including:

- California Office of Traffic Safety Grant Programs, i.e.: OTS DUI Mini-Grant administered by Berkeley Traffic Safety Center
- County wide Grant Programs, i.e.: Avoid the 21
- Ad hoc interagency efforts

The Traffic Bureau Supervisor is responsible for coordinating these efforts.

504.4 DUI PROCEDURES

The legal authority for arrest and to enforce DUI laws is contained in the California Vehicle Code , Division 11, Chapter 12, Articles 1 and 2 and specified other sections. Officers are responsible to be familiar with and follow the DUI laws as contained in the California Vehicle Code and the guidelines in he Impaired Driving and Evidence Collection policy.

504.5 REVISIONS

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Impaired Driving and Evidence Collection

505.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence (DUI).

505.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 61.1.11, 61.2.2, 71.5.1

505.2 POLICY

The Hayward 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.

505.3 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.

505.4 FIELD TESTS

The Traffic Sergeant should identify the primary field sobriety tests (FSTs) and any approved alternate tests for officers to use when investigating violations of DUI laws.

505.5 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):

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(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).

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.

505.5.1 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)).

505.5.2 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

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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)).

505.5.3 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.

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.

505.5.4 URINE SAMPLES

If a urine test will be performed, the arrestee should be promptly transported to the appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an officer or jail staff member of the same sex as the individual giving the sample. The arrestee should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample (Vehicle Code § 23158(i)).

The sample shall be packaged, marked, handled, stored and transported as required by the testing facility.The sample should be refrigerated pending transportation for testing.

505.5.5 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).

505.5.6 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).

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505.5.7 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).

505.6 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.

505.6.1 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).

(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.

505.6.2 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.

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(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.

505.6.3 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)).

505.7 ARREST AND INVESTIGATION

505.7.1 WARRANTLESS ARREST

In addition to the arrest authority granted to officers pursuant to Penal Code § 836, an officer may make a warrantless arrest of a person that the officer has reasonable cause to believe has been driving under the influence of an alcoholic beverage or any drug, or under the combined influence of the same when (Vehicle Code § 40300.5):

(a) The person is involved in a traffic crash.

(b) The person is observed in or about a vehicle that is obstructing the roadway.

(c) The person will not be apprehended unless immediately arrested.

(d) The person may cause injury to themselves or damage property unless immediately arrested.

(e) The person may destroy or conceal evidence of a crime unless immediately arrested.

505.7.2 OFFICER RESPONSIBILITIES

The officer serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):

(a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver’s license to the Department of Motor Vehicles (DMV).

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(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.

505.8 RECORDS BUREAU RESPONSIBILITIES

The Records Administrator will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

505.9 ADMINISTRATIVE HEARINGS

The Traffic Bureau 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.

Officers called to testify at an administrative hearing should document the hearing date and DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified.

505.10 TRAINING

The Personnel and Training Administrator should ensure that officers participating in the enforcement of DUI laws receive regular training. Training should include, at minimum, current laws on impaired driving, investigative techniques and rules of evidence pertaining to DUI investigations. The Personnel and Training Administrator should confer with the prosecuting attorney's office and update training topics as needed.

505.11 REVISIONS

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Traffic Citations

506.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

506.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 44.2.1, 61.1.13, 82.3.3, 82.3.4

506.2 RESPONSIBILITIES

The Traffic Sergeant shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council. The Traffic Sergeant is responsible for oversight and maintenance of the citation supply and issue system. The Property/Evidence Unit shall be responsible for the issuance of citation books and the secure retention of completed citations. In the issuance of a citation book the Property/Evidence Unit personnel will be required to log the employee's name, the date and citation number range and forward it to the Traffic Bureau. The Traffic Bureau Clerk shall be responsible for performing an annual citation audit to include Traffic, Parking and Administrative Citations. The results of these audits shall be forwarded to the Traffic Bureau Sergeant for review. Once any citation is written, it shall be placed into the secure citation drawer at the end of each business day. The citations shall be processed and hard copies will be maintained in the secure storage facility under the control of the Property/Evidence Unit. At all times, the supply of unissued citation books will remain in a secure storage facility under the control of the Property/Evidence Unit.

506.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this Department do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued (Vehicle Code § 40500(d)). All requests from citizens to dismiss a citation shall be referred to the Traffic Bureau Sergeant. Upon a review of the circumstances involving the issuance of the traffic citation, the Traffic Bureau Sergeant may request the Patrol Division Commander to recommend dismissal of the traffic citation. If approved, the citation being recommended for dismissal 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.

506.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed, but not issued. All copies of the citation shall be presented to a supervisor to approve the voiding of the citation. The citation and copies shall then be forwarded to the Traffic Bureau.

506.4.1 LOST OR MISSING CITATIONS

When an employee discovers that a citation is lost or otherwise missing, he/she must submit a memo through the chain of command stating the circumstances of the lost/missing citation. The

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supervisor will then forward the memo to the Traffic Bureau Supervisor, who will make the notation of the citation number on the citation issuance log.

506.5 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and in need of correction, the officer issuing the citation shall submit the citation and a letter requesting a specific correction to his/her immediate supervisor. The citation and letter shall then be forwarded to the Traffic Bureau. The Traffic Bureau shall prepare a letter of correction to the court having jurisdiction and to the recipient of the citation.

506.6 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE

Disposition of notice of parking violation appeals is conducted pursuant to Vehicle Code § 40215.

506.6.1 TIME REQUIREMENTS

Administrative review or appearance before a hearing examiner will not be provided if the mandated time limits are not adhered to by the violator.

(a) Requests for an administrative review must be postmarked within 21 calendar days of issuance of the notice of parking violation, or within 14 calendar days of the mailing of the Notice of Delinquent Parking Violation (Vehicle Code § 40215(a)).

(b) Requests for administrative hearings must be made no later than 21 calendar days following the notification mailing of the results of the administrative review (Vehicle Code § 40215(b)).

(c) An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to Vehicle Code § 40200 to Vehicle Code § 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 and Vehicle Code § 40210).

506.7 REVISIONS

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Disabled Vehicles

507.1 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.

507.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 61.4.1

507.2 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.

507.2.1 ASSISTANCE TO OTHER HIGHWAY USERS

General assistance to motorists that do not have a disabled vehicle is encouraged, as time and resources allow, if requested. These services might include providing directions or other related information.

507.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by department personnel will be contingent on the time of day, the location, the availability of departmental resources, and the vulnerability of the disabled motorist.

507.3.1 MECHANICAL REPAIRS

Department personnel shall not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

507.3.2 ROADSIDE OR TOW SERVICES

Most motorists with a disabled vehicle require roadside assistance. Department personnel should assist in making contact and summoning a tow company if necessary. The motorist should be asked if he or she has a preference of a specific tow company. Department Personnel should request the specific tow company be summoned by the Dispatch Center, or if no preference is expressed, Dispatch shall contact the next rotational tow company available.

507.3.3 EMERGENCY SITUATIONS

In emergency situations, officers should use discretion in determining the appropriate action to assist a motorist. Care should be given to provide any possible assistance while evaluating the danger to officers, victims and other motorists. Any time a motorist is caught in a hazardous situation, officers should, if possible, direct or transport them to the nearest safe position. Officers

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should provide emergency first aid when needed and/or arrange for emergency medical or fire response when appropriate.

507.3.4 RELOCATION OF DISABLED VEHICLES
The relocation of disabled vehicles by members of this department by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

507.3.5 RELOCATION OF DISABLED MOTORIST
The relocation of a disabled motorist should only occur with the person's consent and should be suggested when conditions reasonably indicate that immediate movement is necessary to mitigate a potential hazard. The department member may stay with the disabled motorist or transport him/her to a safe area to await pickup.

507.4 PUBLIC ACCESS TO THIS POLICY
This written policy is available upon request.

507.5 REVISIONS
Enacted: December 17, 2007

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Police Traffic Escorts

508.1 PURPOSE AND SCOPE

This policy outlines the responsibilities for providing escort service for emergency vehicles and civilian vehicles in medical emergencies or planned motorcades.

508.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 61.3.3

508.2 ESCORTS GENERALLY

Police Escorts in general are highly discouraged. It is the policy of this agency not to routinely provide escorts for funerals or other processions.

508.2.1 AUTHORITY AND PROCEDURE

The Special Operations Division Commander or his designee may authorize a scheduled escort in cases of dignitary security, funeral procession of a public official or dignitary, highway construction, unusual cargo, or as directed by the Chief of Police. A Patrol Watch Commander or supervisor may authorize an emergency escort in life threatening situations.

508.3 REVISIONS

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Parking Violations and 72-Hour Violations

509.1 PURPOSE AND SCOPE

This policy provides procedures for the marking, recording, and storage of vehicles parked in violation of the Hayward City Ordinance regulating 72-hour parking violations and abandoned vehicles under the authority of Vehicle Code § 22669.

509.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 61.1.13, 61.4.3

509.1.2 PARKING ENFORCEMENT

Patrol personnel, including Community Service Officers, are authorized and responsible for enforcing parking laws under state and local law. Parking violations are to be issued on City of Hayward Parking Citations, which include the violators copy and a pre-addressed response envelope. Parking violations, once issued, shall be turned in at the conclusion of each work day.

When responding to complaints of parking violations and it is determined that signage or other markings are damaged, missing or otherwise inadequate to legally determine a violation, it is the responsibility of that employee to not issue a citation and to notify the Traffic Bureau for further review and follow-up as needed.

509.2 MARKING VEHICLES

Vehicles suspected of being in violation of the City of Hayward 72-Hour Parking Ordinance shall be marked and noted on the associated Computer Aided Dispatch (CAD) incident. No case number is required at this time.

A visible chalk mark should be placed on the left rear tire tread at the fender level unless missing tires or other vehicle conditions prevent marking. The vehicle should also be marked with a Hayward Police Department vehicle warning notice placed on either the front windshield or the driver's door window. This notice shall state the date/time of the vehicle's marking and the date the vehicle is subject to being towed. Any deviation in standard markings shall be noted on the associated Computer Aided Dispatch (CAD) incident.

The intent of this ordinance is to place vehicles into regular use within 72 hours of the notice. Pushing, moving the vehicle a short distance, removing of the notice and/or attempting to remove any tire markings are not considered an attempt to comply with the law and may result in the vehicle being towed without further notice. Employees towing vehicles under these circumstances shall have clear and articulately facts supporting a decision to tow. Absent required evidence, the vehicle shall be marked again for the 72-hour parking violation and the associated CAD incident updated with this information.

Parking citations for the 72-hour parking ordinance shall not be issued when the vehicle is stored for the 72-hour parking violation.

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509.2.1 MARKED VEHICLE RESPONSIBILITY
The Traffic Bureau Supervisor shall be responsible for monitoring the follow-up of all 72-Hour Parking Ordinance CAD Incidents. Community Policing CSO's shall be responsible for the follow up investigation of all 72-Hour parking violation/storages relating to each 72-Hour Parking Ordinance CAD Incident.

509.2.2 VEHICLE STORAGE
Any vehicle in violation shall be stored by the authorized towing service and a vehicle storage report shall be completed by the officer authorizing the storage of the vehicle.

The storage report form shall be submitted to the Records Bureau following the storage of the vehicle. It shall be the responsibility of Dispatch 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).

509.3 REVISIONS
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Chapter 6 - Investigation Operations

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Investigation and Prosecution

600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

600.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 42.2.2

600.2 FOLLOW-UP INVESTIGATION PROCEDURES

Follow-up investigation procedures are developed and are maintained in the Hayward Police Department Report Writing Manual. Department members conducting follow-up investigations will follow the established procedures as appropriate.

After a preliminary investigation has been completed and a Patrol sergeant has determined that a follow-up investigation by a Criminal Investigations Bureau investigator is prudent, the case should be forwarded to a Criminal Investigations Bureau Sergeant for review. Once assigned, the investigator is accountable for conducting a thorough and timely follow-up investigation, possibly including:

(a) Reviewing and analyzing all preliminary reports prepared by patrol officers, Departmental records, and laboratory results of any physical evidence collected related to the case under investigation

(b) Conducting additional interviews and interrogations of suspects, victims and witnesses when necessary.

(c) Contacting the officers who were at the scene who prepared the preliminary report to obtain further information or receive his/her ideas about the offense.

(d) Planning, organizing, conducting searches, and collecting evidence.

(e) Ensuring the correct identification of the suspect and making an arrest. Identification of a suspect may occur through photo or stand-up lineups, testimony of witnesses and from physical evidence that identifies a particular suspect.

(f) Conducting research into the suspect's involvement in past offenses, through arrest records and criminal history checks.

(g) Checking the suspect’s criminal history for the possibility of additional charges.

(h) Preparing the case for court.

(i) Advising the victim(s) or witness(s) of the arrest or submission of the case to the District Attorney.

600.3 INITIAL INVESTIGATION

600.3.1 OFFICER RESPONSIBILITIES

An officer responsible for an initial investigation shall complete no less than the following:

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(a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:

1. An initial statement from any witnesses or complainants.
2. A cursory examination for evidence.

(b) If information indicates a crime has occurred, the officer shall:

1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Watch Commander.
4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
5. Collect any evidence.
6. Take any appropriate law enforcement action.
7. Complete and submit the appropriate reports and documentation.

(c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the informant or complainant of this information.

600.3.2 PROFESSIONAL MEMBER RESPONSIBILITIES

A professional staff 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.

600.4 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.

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No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Criminal Investigations Bureau supervisor, or per departmental purging procedures once the case is adjudicated or beyond the statute of limitations. 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.

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).

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).

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600.5 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).

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.

600.6 USE OF CERTAIN DNA SAMPLES

Known samples of DNA collected from a victim of a crime or alleged crime, and known reference samples of DNA from any individual that were voluntarily provided for the purpose of exclusion are to be used only for the purpose directly related to the incident being investigated and in compliance with the procedures identified in Penal Code § 679.12.

600.7 ANTI-REPRODUCTIVE RIGHTS CRIMES

A member should take a report any time a person living within the jurisdiction of the Hayward 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.

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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 Department should provide the Records Administrator 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.

600.8 REVISIONS

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Criminal Investigation Administration

601.1 PURPOSE AND SCOPE

The purpose of this section is to create a framework for efficient and effective criminal investigations. Criminal investigations can be performed by both uniformed officers; inspectors or detectives specialized in investigations.

601.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 42.1.1, 42.1.2, 42.1.3, 42.1.4, 42.2.9, 82.3.5

601.2 24-HOUR CRIMINAL INVESTIGATION

The Criminal Investigations Bureau produces an on-call schedule for the purpose of having assigned investigators available at times other than normal business hours. The on-call schedule will be made available to the Communications Center, Watch Commanders, patrol supervisors and administrative staff. The Criminal Investigations Bureau Sergeant is responsible for notifying the Watch Commander of any changes to the rosters or to change the roster itself. The on duty Watch Commander will determine need before calling the on-call Sergeant. In determining when to call out Investigative personnel, the Watch Commander and on-call Sergeant should consider the seriousness of the offense, complexity of the case or crime scene, staleness of the crime, available staffing and their expertise. The on-duty Watch Commander has final authority as to whether or not Investigators are called out.

The on-call Criminal Investigations Bureau Sergeant will immediately notify the two Investigators designated as on-call, as well as the Criminal Investigations Bureau Lieutenant.

601.2.1 RESPONSIBILITY AT CRIME SCENES

When an Investigator is summoned to a crime scene, the Investigator will confer with the patrol officer and/or Sergeant in charge. The Investigator will assume responsibility as the case officer and have the authority to control the crime scene, direct the investigation and direct those police resources at the scene. Criminal Investigations Bureau and Patrol Bureau personnel shall endeavor to cooperate to the utmost level, having the solution of the crime and public safety foremost in mind.

601.2.2 INVESTIGATORS ATTENDANCE AT PATROL LINE-UPS

The Criminal Investigations Bureau Lieutenant shall assure that investigations personnel periodically attend patrol briefings to share information and the status of cases.

601.3 CASE SCREENING AND INVESTIGATION

Case screening focuses the available work force on the investigation of crimes that have the best chances for a successful conclusion. The Criminal Investigations Bureau Sergeants screen new cases to decide the course of the investigation, basing his/her decisions on:

(a) The seriousness of the incident.

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(b) The solvability factors that are present, including:

1. Suspect Leads
2. Witnesses
3. Identifiable Suspect Vehicles
4. Distinctive Methods of Operation
5. Available Physical Evidence and/or Lack of Traceable Property

(c) The Investigative Workload.

Cases should be assigned to available investigators with the special skills, knowledge, or abilities necessary to complete the investigation. The Criminal Investigations Bureau Supervisor is responsible for recording and monitoring cases assigned to investigators.

601.3.1 SUSPENDING CASES

The suspension of case investigations that are not major cases, e.g., property crimes not involving a criminal ring, may occur with corroboration between the investigator and the Criminal Investigations Bureau Sergeant. The suspension of major cases may occur only after review by and the approval of the Criminal Investigations Bureau Sergeant or Lieutenant. Cases may be suspended for reasons that include the following:

- Lack of Workable Leads
- Lack of Corroborative Witnesses
- Lack of Victim Cooperation
- Unavailability of Investigative Resources

601.3.2 COLD CASES

A cold case is one that is usually possesses the following criteria:

- At least a year old
- Original investigative leads have been exhausted
- Cannot be addressed by the original detective because of workload, time constraints or lack of viable leads at the time of original assignment

When staffing allows, Criminal Investigations Bureau personnel should review unsolved homicides, rapes and/or other serious crimes every other year for possible cold case efforts. A preliminary review of cold cases should be based upon the following:

- The probability of the case having a potential of solvability through the use of markedly evolved DNA (deoxyribonucleic acid) forensics
- The probability of the case having a potential of solvability through the use of investigative interviews and the development of informants

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A review of all applicable reports including, but not limited to:

- Original, supplemental and/or investigative reports
- Autopsy protocol
- Coroner investigator reports
- Laboratory requests and reports

A review of evidence to determine availability, condition and usability, as well as any evidence that may potentially contain DNA material of evidentiary value.

Investigative actions:

- Investigators will arrange to send appropriate evidence for laboratory search, evaluation and comparison as necessary
- Investigators will conduct search of the current locations, criminal activity and availability of involved parties and/or potential suspects
- Informal interviews will be conducted with previous case investigators as needed
- Investigators will document actions through adding notations to current case files and/or investigative reports

601.4 CASE STATUS CONTROL SYSTEM

Upon screening a potential case, the Criminal Investigations Bureau Sergeant will decide which investigator will be assigned the case and enter or update the case information in the automated case management system. Minimally, the case management information should include:

- The Investigator's Name
- The Date Assigned
- The Case Number
- The Crime Offense
- Other Pertinent Information

601.4.1 ADMINISTRATIVE DESIGNATORS

All crimes investigated by the Hayward Police Department shall have administrative clearance designations that meet the guidelines of the California Department of Justice. Authors of criminal investigation reports shall use the most appropriate designation as to the explanation of clearance. The clearance designations are:

- Cleared, Adult Arrest
- Cleared, Adult Exceptional
- Cleared Report
- Cleared, D.A. Review

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- Cleared, Issued In Error
- Cleared, Juvenile Arrest
- Cleared, Juvenile Exceptional
- Cleared, Non-Criminal
- Cleared, Referred to Other Jurisdiction
- Cleared, Unfounded
- Open, Pending Further Investigation
- Suspended, Pending Further Leads/Information
- Unsubstantiated
- Unfounded

601.4.2 INVESTIGATIONS CASE FILES

When a case is assigned to an Investigator, a temporary case file may be created and stored within the Criminal Investigations Bureau. This file should only contain copies of the original case as all original case files are maintained within the Records Bureau. Upon completion of the case or upon update of original record, the Investigator shall assure that all relevant and/or discoverable information is transferred from the investigations case file to permanent record and/or the Property/ Evidence Unit.

When the Investigator assigned to a case no longer needs the case file and all pertinent information has been transferred to the permanent record, case notes and work product material may be purged and shredded.

601.4.3 REPORT ACCESSABILITY

The Records Management System (RMS) allows Department-wide viewing of most case files. Personnel assigned to the Criminal Investigations Bureau (CIB) have immediate access to RMS via their desktop or laptop computers 24-hours a day. However, with the approval of a supervisor, general access to the report may be restricted, as in Juvenile reports. Restricted access may limit the number of personnel who can view the report, prohibit changes or modifications, or ban users from printing or forwarding sensitive or classified reports.

601.5 PRELIMINARY AND FOLLOW UP INVESTIGATIONS

Patrol officers are the first responders and responsible for the preliminary investigation of crimes. Patrol officers may conduct the follow-up investigation, if practicable, for cases they are assigned. Patrol officers responding to serious felonies should ask their supervisor if it is appropriate to request an Investigator be called out. If a patrol officer is unable to complete follow-up on a routine case, that case should be forwarded to the Criminal Investigations Bureau.

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Criminal Investigation Administration

The Criminal Investigations Bureau conducts the follow-up investigation on serious and complex cases or those where follow-up by patrol is not practicable. Investigators generally will be requested to handle cases involving the following:

- Felony Child Abuse
- Sexual Assaults
- Suspicious Deaths
- Homicides

601.6 REVISIONS

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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 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 55.1.3, 55.2.1, 55.2.3

602.1.2 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 Hayward 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 INVESTIGATION AND REPORTING

In all reported or suspected cases of sexual assault, a report should be written and follow-up assigned, as appropriate.

602.5 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations, which begin with the initial call to the Communications Center, 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.

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 laboratory for analysis has not been tested within 120 days after submission, the officer shall update the SAFE-T database to reflect the reason for the delay in testing. The assigned officer shall continue to update the status

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every 120 days thereafter until the evidence has been analyzed or the statute of limitations has run (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 DESTRUCTION OF EVIDENCE
Any destruction of evidence related to a sexual assault shall occur only after victim notification is made as required pursuant to Penal Code § 680 and only in compliance with the Property and Evidence Policy.

602.6.4 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT
The Property and Evidence Bureau 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).

602.6.5 COLLECTION OF DNA REFERENCE SAMPLES
Reference samples of DNA collected directly from a victim of sexual assault, and reference samples of DNA collected from any individual that were voluntarily provided for the purpose of exclusion, shall be protected as provided in Penal Code § 679.12 (Penal Code § 680).

602.7 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 Criminal Investigations Bureau supervisor.

Classification of a sexual assault case as unfounded requires the Criminal Investigations 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 Criminal Investigations 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.

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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 Criminal Investigations 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.
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.

602.11 REVISIONS

Enacted: December 17, 2007

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Sexual Assault Investigations

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Vice, Drugs and Organized Crime

603.1 PURPOSE AND SCOPE

The investigation of vice, drug and organized crime activities can involve large expenditures of time, money and effort. This policy will help to evaluate the accuracy and credibility of initial information and determine the scope and relative importance of the problem.

603.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 43.1.1, 43.1.2, 43.1.3, 43.1.4, 43.1.5

603.2 COMPLAINT HANDLING

When alleged vice, drug, or organized crime activity information is received, it shall be documented, indicating the source, the activity, pertinent dates and times, the name or employee number of the person receiving the information, and any other pertinent information. Documentation may be by official police report, memorandum, or CAD incident printout.

Reports regarding vice, drug or organized crime shall be routed to the Criminal Investigation Bureau Lieutenant. The case may be assigned to a detective for possible follow-up or routed to the appropriate jurisdiction. If the case or information is routed to another agency or jurisdiction, such routing shall be documented in the report or incident. The Criminal Investigation Bureau Lieutenant shall notify the Chief of Police, via chain of command, of any high profile vice, drug or organized crime arrests or cases.

603.3 RECORD KEEPING

The Criminal Investigation Bureau Lieutenant shall maintain the security levels on electronic case files of a sensitive nature. Access shall be restricted to a "need to know" basis. Cases of a sensitive nature are not to be printed in hard file until it is determined the case is closed and placing the information in the records system would not jeopardize the case, witnesses or investigators.

603.4 CONFIDENTIAL FUNDS

The Investigation Division Commander is responsible for maintaining a Special Investigation Fund, for its disbursement, and for the accounting of each expenditure. This cash fund is maintained to pay for specialized investigative expenses incurred in active organized crime, drug and vice investigations.

603.5 SURVEILLANCE/UNDERCOVER EQUIPMENT

The Criminal Investigation Bureau Lieutenant or designee shall have the responsibility for the Department owned surveillance and undercover equipment. Such equipment may include night vision devices, binoculars, cameras, cellular and audiovisual equipment, and unmarked vehicles. The equipment should be stored in a locked room or cabinet as appropriate. Any Department member with an official need to use the surveillance equipment may contact the Criminal Investigation Bureau Lieutenant and request its use.

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The Criminal Investigation Bureau Lieutenant shall maintain an equipment checkout system that at all time accounts for the Departmental surveillance and undercover equipment. Any sworn Department member requesting usage of equipment shall sign for it upon receipt, note purpose of request and return it promptly when the purpose is complete. Upon return the receiving investigator shall sign the equipment back in, and note if there were any problems with its usage.

603.6 CONDUCTING/PARTICIPATING IN SURVEILLANCE

When any surveillance, undercover or decoy operation or raid is planned, the Department member in charge of the operation shall prepare an operations plan in accordance with existing procedures prior to engaging in the operation. The Department member in charge of the operation shall ensure that personnel engaged in the operation are appropriately briefed on the plan. Department members shall not participate in surveillance, undercover activities or decoy operations with outside agencies that do not generally meet the requirements of this section.

603.6.1 OPERATIONAL PLANS

A written plan will be submitted and approved prior to the implementation of any planned extensive and/or sensitive decoy, undercover, or surveillance operation. This plan will address the needs of each specific situation and will include a minimum of the following, when applicable to the mission:

- An analysis of the particular crime, victim and suspects
- A determination of the legal ramifications of the operation
- A familiarization of the involved officers with the objective and details of the operation and the geographic area of the operation
- Pre-determined operational procedures for observation, arrests, surveillance, and high-risk entries
- Provisions for providing officers with expense funds
- Established means of routine and emergency communication
- Selection of all necessary equipment and vehicles
- Provisions for providing relief, backup security, and perimeter protection personnel for officers
- Procedures for supplying officers with false identity, disguises, and necessary credentials
- The maintenance of overall confidentiality and cover
- The designation of a single person as supervisor and coordinator
- The provision of close supervision of the operation
- Plans for making contact with suspects
- Provisions covering the search and seizure of evidence and/or contraband

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- Provisions for requesting medical assistance
- Provisions for obtaining coordination and assistance from others, both inside and outside of the agency

603.7 REVISIONS

Enacted: May 12, 2009

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Asset Forfeiture

604.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

604.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 84.1.8

604.1.2 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 Hayward Police Department seizes property for forfeiture or when the Hayward 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.

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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.

(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.

604.2 POLICY

The Hayward 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 Hayward 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.

604.3 ASSET SEIZURE

Property may be seized for forfeiture as provided in this policy.

604.3.1 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.

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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).

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.

604.3.2 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).

604.4 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.

(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

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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.

604.5 MAINTAINING SEIZED PROPERTY

The Property and Evidence Bureau 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.

604.5.1 ASSET FORFEITURE LOG

A computerized inventory of all asset forfeiture cases shall be kept by the Investigations Division Commander or his/her designee. The inventory shall include the following information:

- Case number
- Date of seizure
- Value
- Type of seizure (federal or state)
- Status of the seizure

Information maintained on the log will be provided to the Chief of Police or authorized staff, as requested.

604.6 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:

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(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.

(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.

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3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property (Health and Safety Code § 11488.4).
4. Property is promptly released to those entitled to its return (Health and Safety Code § 11488.2).
5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
6. Any cash received is deposited with the fiscal agent.
7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
8. Current minimum forfeiture thresholds are communicated appropriately to officers.
9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.

(i) Ensuring that a written plan that enables the Chief of Police to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement officers and attorneys who may assist in these matters is available.

(j) Ensuring that the process of selling or adding forfeited property to the [department/ 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).

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604.7 DISPOSITION OF FORFEITED PROPERTY

Forfeited funds distributed under Health and Safety Code § 11489 et seq. shall only be used for purposes allowed by law, but in no case shall a peace officer's employment or salary depend upon the level of seizures or forfeitures he/she achieves (Heath and Safety Code § 11469).

The Department may request a court order so that certain uncontaminated science equipment is relinquished to a school or school district for science classroom education in lieu of destruction (Health and Safety Code § 11473; Health and Safety Code § 11473.5).

604.7.1 RECEIVING EQUITABLE SHARES

When participating in a joint investigation with a federal agency, the Hayward Police Department shall not receive an equitable share from the federal agency of all or a portion of the forfeiture proceeds absent either a required conviction under Health and Safety Code § 11471.2 or the flight, death or willful failure to appear of the defendant. This does not apply to forfeited cash or negotiable instruments of $40,000 or more.

604.8 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 such 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).

604.9 REVISIONS

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Informants and Sources of Information

605.1 PURPOSE AND SCOPE

In many instances, a successful investigation cannot be conducted without the use of informants and/or sources of information. To protect the integrity of the Hayward Police Department and the officers using informants and/or sources of information, it shall be the policy of this Department to take appropriate precautions by developing sound informant management and control policies.

605.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 42.2.6

605.2 DEFINITIONS

(a) **Source of Information** means any person who provides information to a member of this Department regarding suspected or actual criminal activity, by an individual or a group of persons, when the information is not based on his/her personal knowledge, is of a general nature, and is not specific as to the mode or methods used in the furtherance of the criminal activity. A Source of Information shall not be compensated or granted case consideration in return for the information provided.

(b) **Informant** means any person who provides information based on his/her personal knowledge to a member of this Department regarding actual criminal activity, by an individual or a group of persons, when the information is of a specific nature regarding the identity of the persons involved in the criminal activity and specific to the mode and methods used in furtherance of the criminal activity.

(c) **Citizen Informant** means any person who provides information based on his/her personal knowledge, who is an eyewitness to a crime, and whose identity is known to the police, and where there is no reason to doubt his/her reliability or the accuracy of his/her information, and who meets the legal requirements established for citizen informants.

(d) **Untested Informant** means any informant who has provided information based on his/her personal knowledge, where the information provided has not been corroborated by a member of this Department or another law enforcement agency.

(e) **Tested (Reliable) Informant** means any informant who has provided information based on his/her personal knowledge and who meets the legal standards for reliability.

(f) **Confidential Informant** means any informant whose identity is known to the Department, but is withheld to protect the informant and/or his/her family members or associates from the likelihood of being the victims of violence.

(g) **Unreliable** means any person who has made inconsistent statements to members of the Department about material issues, who has provided false and/or fabricated information or who, by any other means, violates the instructions given to him/her

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about assisting the Department, or who demonstrates themselves to be a control problem for the managing employee.

605.3 AUTHORIZATION TO USE AND MAINTAIN INFORMANTS

No member of this Department shall use the services of an informant without the written permission of their immediate supervisor and the Criminal Investigation Bureau Manager, their Division Commander, or the Chief of Police. This shall not apply to citizen informants as they may be used occasionally in the normal course of conducting criminal investigations, nor shall it apply to sources of information who regularly or sporadically supply general information to members of this Department.

A member of the Department desiring to use an individual as an informant shall complete an informant file that includes all of the following:

(a) Informant Record form that includes the name, addresses, telephone numbers, date of birth, physical description, identifying numbers (from DMV, CII, FBI, and Alameda County PFN), and photograph of the informant.

(b) A full set of rolled fingerprints if the informant does not have an existing arrest record.

(c) A copy of the results of warrant inquiries from AWS, CLETS, and NCIC.

(d) Results of a current WSIN inquiry regarding the informant.

(e) A written initial debriefing report that articulates the information provided by the informant that is of value to the Department and the intended uses of the informant. The debriefing report shall additionally include whether the informant will be paid for his/her services or whether the informant will be providing services in exchange for consideration in a pending criminal case.

The completed informant file shall be reviewed by the member's immediate supervisor who shall make a recommendation regarding using the individual as an informant. The file shall then be routed to the Criminal Investigation Bureau Manager for final approval.

If a prospective informant has been classified by WSIN as unreliable, that prospective informant is disqualified and shall not be used by any member of this Department unless the Criminal Investigation Bureau Manager receives express permission for use of the individual from the Chief of Police.

Once approved, the member managing the informant shall have the informant complete and sign an Informant Regulations Admonishment form which shall be placed in the informant file.

605.4 INFORMANT FILE SYSTEMS

The Criminal Investigation Bureau Manager or his/her designee shall be responsible for maintaining all informant related files. All informant related files shall be maintained in a secure area within the Criminal Investigation Bureau Manager's office. These files shall be used to provide a source of background information about the informant, enable review and evaluation

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of information given by the informant, and minimize incidents that could be used to question the integrity of members of the Department or the reliability of the informant.

Access to informant related files shall be restricted to the Chief of Police, Division Commanders, the Criminal Investigation Bureau Manager, and their designees.

605.4.1 INFORMANT IDENTIFICATION NUMBERS

Each informant, approved for use by a member of the Department, shall be assigned a unique identification number to be used when referencing the informant and as required in this policy. The numbering system should not include any information that might tend to make identification of the informant or any managing employee apparent to any individual or group.

The informant identification number will begin with the initials "HPD" to identify that the informant's association with the Hayward Police Department. A numerical identification will follow the initials to indicate the year in which the informant was activated. After the year, the Departmental employees initials and badge number will be inserted followed by the informant's three digit sequence number. The three-digit sequence number will begin at 001 for each calendar year. (Example: HPD-2009-AP67-001 would be issued to the first informant signed up in the year 2009 for that officer)

605.4.2 INFORMANT MASTER FILE LOG

A master file shall be maintained of the Department's informants. The master file shall include the names of all informants, the identification number assigned to the informant, the name of the informant's managing employee, and the status of the informant, i.e. active, inactive, or unreliable.

605.4.3 INDIVIDUAL INFORMANT FILES

A separate file shall be maintained on each informant. Each file shall be coded with the assigned informant identification number. In addition to the items described in (a) to (e) of the Authorization To Use And Maintain Informants section of this policy, the informant's file shall contain the following:

(a) A fully completed and signed Informant Regulations Admonishment form.

(b) Informant Performance Report form.

(c) Informant Financial Report form.

(d) Debriefing reports that contain the information provided by the informant and his or her subsequent reliability. If an informant is determined to be unreliable, the informant's file is marked as "Unreliable," the informant shall no longer be used for any purpose, and the "unreliable" status of the informant shall be sent to WSIN, by the Criminal Investigation Bureau Manager, for appropriate disposition.

(e) Name of officer initiating use of the informant.

(f) Update on active or inactive status of informant.

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605.5 REVIEW OF PROSPECTIVE INFORMANT'S CRIMINAL HISTORY

Prior to using any individual as an informant, the managing employee, supervisor and the Criminal Investigation Bureau Manager shall conduct a thorough review of the prospective informant's complete criminal history to determine their suitability for use by a member of this Department.

Both arrests and convictions shall be considered in making any determination of suitability. Any person may be disqualified based solely on a determination that their prior history makes the individual unsuitable because of the nature of their prior arrests and/or convictions.

Disqualifying circumstances include offenses involving dishonesty or false statements, perjury or providing false testimony in a judicial proceeding, and convictions for crimes of violence, sex crimes, or offenses indicating a pattern of deceit.

605.6 USE OF PERSONS ON PAROLE OR PROBATION

Individuals on probation and/or parole may be used as informants, depending on the nature of the offense they are on parole or probation for when considered along with their prior criminal history.

Use of a parolee as an informant shall additionally require the written authorization of a member of the California Department of Corrections and Rehabilitation. The use of individuals on federal parole as informants is prohibited.

605.7 JUVENILE INFORMANTS

The use of juvenile informants under the age of 13-years is prohibited. Except as provided for in the enforcement of the Tobacco Enforcement Act, Business & Professions Code § 22950, et seq., the use of any juvenile informant between the ages of 13 and 18 years is only authorized by court order obtained pursuant to Penal Code § 701.5.

For purposes of this policy, a "juvenile informant" means any juvenile who participates, on behalf of this Department, in a prearranged transaction or series of prearranged transactions with direct face-to-face contact with any party, when the juvenile's participation in the transaction is for the purpose of obtaining or attempting to obtain evidence of illegal activity by a third party and where the juvenile is participating in the transaction for the purpose of reducing or dismissing a pending juvenile petition against the juvenile.

605.8 STATUS OF INFORMANTS

Once approved for use, an informant shall be considered "active" and shall remain in active status until:

(a) The informant discontinues contact with the Department for a period of six months; or

(b) The informant is deemed unreliable.

Only informants in active status may be used by members of this Department. Informants may be reactivated with the approval of the Criminal Investigation Bureau Manager by submitting a written debriefing report as described in this policy, and after a review of the informant's current criminal history and past performance.

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605.9 HANDLING AND MANAGING INFORMANTS

While officers are permitted to recruit and manage informants in furtherance of their official duties, informants are "operatives" of the Department and not of the individual officer. When officers are reassigned, transferred, or their current assignment no longer makes managing an informant feasible, the management of the informant shall be transferred to another officer whose current assignment facilitates management and use of the informant. Reassignment of informants is the responsibility of the Criminal Investigation Bureau Manager, who shall consult with the appropriate bureau or unit supervisor in making the reassignments.

605.9.1 DEBRIEFING REPORTS

(a) Initially and immediately after any subsequent contact with an informant, the managing officer shall complete a written debriefing report, in memorandum form, which includes all of the following:

1. The identification number assigned to the informant by the Department.
2. The date, time, and location of the contact.
3. The method of contact, e.g. in person meeting, telephone call.
4. The name of other members of the Department present at any in person meeting.
5. The information provided by the informant including the name of any suspects in criminal activity reported by the informant.
6. Any plan to take action on the information provided by the informant.
7. The expected results of the action to be taken.

(b) Immediately after any activity undertaken based on information provided by an informant, the managing officer shall complete a written debriefing report, in memorandum form, which includes all of the following:

1. The identification number assigned to the informant by the Department.
2. The date, time, and location of the activity.
3. The type of activity, e.g. controlled buy, search warrant service.
4. The assigned police report number.
5. The name of the suspects involved.
6. The results of the activity, e.g. arrests, seizures of contraband, recovery of stolen property.
7. A description of any contraband seized.

(c) These debriefing reports assist in establishing an official record of the reliability of informants and are included in the informant's file.

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(d) Written debriefing reports shall be submitted to the member's immediate supervisor for approval within two working days after contact with the informant and then routed to the Criminal Investigation Bureau Manager for inclusion in the informant's file.

605.9.2 RELATIONSHIPS WITH INFORMANTS

No member of the Department shall knowingly maintain a social relationship with an informant while on duty or off duty, or otherwise become intimately involved with an informant.

Members of the Department shall neither solicit nor accept gratuities or gifts from nor shall any member engage in any private business or financial transaction with any informant.

To maintain officer/informant integrity, the following shall be adhered to:

(a) Officers shall not withhold the identity of an informant from their superiors.

(b) Identities of informants shall otherwise be kept confidential.

(c) Criminal activity by informants shall not be condoned.

(d) Informants shall be told they are not acting as police officers, employees or agents of the Hayward, and that they shall not represent themselves as such.

(e) The relationship between officers and informants shall always be ethical and professional.

(f) Social contact with informants shall be avoided unless necessary to conduct an official investigation, and then only with prior written approval of the Criminal Investigation Bureau Manager.

(g) Officers shall not meet with informants unless accompanied by at least one additional officer and with the approval of their immediate supervisor. When contacting informants for the purpose of making payments, officers shall arrange for the presence of a supervisor.

(h) In all instances when Department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses and the procedures in this policy shall be followed.

605.9.3 CASE CONSIDERATION FOR INFORMANTS

The Department recognizes two types of defendant informants that may desire to provide information to the Department in order to receive consideration from the District Attorney regarding the filing of a criminal case or toward sentencing in a previously charged criminal case.

Informants with a Charged Criminal Case:

Members of the Department may use a defendant informant with an existing charged criminal case only with the advance permission of the District Attorney's designee. If the agency initiating the existing criminal case is not this Department, the permission of the designee of the initiating

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agency is also required. Additionally, if the defendant informant is represented by counsel, the permission of their counsel may be required.

The District Attorney's designee may set terms, conditions, and/or restrictions for use of the defendant informant as he/she feels necessary and members of the Department shall abide by all such terms, conditions, and/or restrictions in using the defendant informant. The District Attorney's designee may require that a written agreement be executed by all interested parties relative to the performance requirements of the defendant informant in securing any agree upon case consideration.

A debriefing report shall be prepared by the managing employee and approved by their immediate supervisor, outlining the contacts, restrictions, and permissions required by this section. The debriefing report and any supporting documents shall be forwarded to the Criminal Investigation Bureau Manager for final approval and inclusion in the informant's file.

Informants with an Uncharged Criminal Case Initiated by this Department:

Members of the Department may use a defendant informant with an uncharged criminal case, originated by this Department, subject to the following:

(a) The defendant informant was not arrested for a crime involving a sexual offense, a violent offense, a weapons offense, or any offense where the nature of the offense would tend to reflect negatively on the credibility of the informant or reduce the potential for the informant to provide reliable information, except that in extraordinary circumstances the Chief of Police may authorize the use of such a defendant informant when, in his/her opinion, the information provided will be of greater benefit to the safety of the community than the prosecution of the defendant.

(b) A debriefing report shall be prepared by the managing employee and approved by their immediate supervisor, outlining the nature of the offense(s) and any evidence obtained in support of the criminal charge(s). The debriefing report shall include the nature of the information the informant is able to provide to the Department and the terms and conditions of the informant's assistance in order for the informant to receive actual consideration or dismissal of the criminal case and the date by which the agreed upon assistance shall be completed. The debriefing report and any supporting documents shall be forwarded to the Criminal Investigation Bureau Manager for final approval and inclusion in the informant's file.

(c) The appropriate incident report will be completed detailing the criminal case against the defendant informant and any evidence will be placed into the property section under the issued report number. The original incident report shall be held in abeyance, for a period not to exceed 30-days, by the managing employee's supervisor. A cover sheet accounting for the report number will be forwarded to the records section indicating that the original report is maintained in the appropriate unit.

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(d) If the defendant informant has not provided the agreed upon assistance within the 30-days allowed, the supervisor shall approve the incident report and ensure that it is forwarded to the District Attorney for charging consideration.

(e) If the defendant informant has provided the agreed upon assistance as required, the incident report will not be forwarded to the District Attorney. The report will be kept in the appropriate unit file for one year and then be filed in the records section.

605.9.4 CONTROLLED PURCHASES OF DRUGS OR OTHER CONTRABAND BY INFORMANTS

The use of informants to purchase drugs or other contraband for investigatory purposes or in furtherance of an effort to obtain a search warrant shall be conducted as follows:

(a) Based on information provided by the informant that an individual or group of individuals is engaged in criminal activity, the managing employee shall make reasonable attempts to identify the suspect or suspects prior to making the controlled buy.

(b) The managing employee will author an operation plan for the controlled buy and have the plan approved by their supervisor.

(c) If special service/undercover funds are to be used in obtaining the drugs of other contraband, the exact amount of money required shall be obtained from the fund and each bill shall be pre-recorded (photocopied).

(d) The managing employee and at least one other member of the Department shall meet with the informant and search the informant to ensure that the informant possesses no drug or other contraband and that the informant possesses no money. If the informant will be operating a motor vehicle during the controlled-buy operation, the Department employees will additionally search the vehicle to ensure that the vehicle contains no drugs, no other contraband, and no money.

(e) The managing employee shall tell the informant that no money is to be given to the suspect in advance of receiving the contraband, unless such a "fronting" of the funds was approved in the operation plan.

(f) The pre-recorded funds for the purchase shall then be given to the informant.

(g) The informant may be outfitted with a concealed transmitter or recorder at the option of the supervisor approving the operation.

(h) Visual surveillance of the informant shall be maintained while enroute to, during, and while enroute from the controlled-buy location.

(i) The managing and assisting employee shall meet with the informant and obtain any contraband obtained from the suspect or the pre-recorded funds if no purchase was made.

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(j) The managing employee and assisting employee shall again search the informant to ensure that the informant possesses no drug or other contraband and that the informant possesses no money. If the informant operated a motor vehicle during the controlled-buy operation, the Department employees will additionally search the vehicle to ensure that the vehicle contains no drugs, no other contraband, and no money.

(k) The informant will be debriefed as to the details of the controlled purchase.

(l) If it is anticipated that the informant will be a percipient witness who will have to testify in court about the controlled purchase, a written or recorded statement shall be obtained from the informant.

(m) The managing employee shall immediately thereafter process the contraband obtained in the controlled-buy as evidence and prepare a Department incident report concerning the controlled-buy. If drugs were obtained they shall be subjected to a presumptive field screening test to confirm the drugs are a controlled substance, weighed, and placed into evidence.

605.10 INFORMANT PAYMENT PROCEDURES

The potential payment of large sums of money to any informant must be done in a manner respecting public opinion and scrutiny. Additionally, to maintain a good accounting of such funds requires a strict procedure for disbursements.

605.10.1 PAYMENT PROCEDURE

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 quality of the violator arrested
- The amount of assets seized
- The quantity of the drugs seized
- The informant's previous criminal activity
- The level of risk taken by the informant

The Criminal Investigation Bureau Manager will discuss the above factors with the appropriate Division Commander and arrive at a recommended level of payment that will be subject to the approval of the Chief of Police. The amount of payment for drug cases will be based on a percentage of the current market price for the drugs or other contraband being sought, not to exceed 15 percent.

605.10.2 PAYMENT PROCESS

Payments to informants for information provided to the Department and/or reimbursement of expenses shall be made only with monies provided by the Department, another governmental

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agency, or from reward funds established and administered by authorized organizations. No member of this Department shall make any payment and/or reimbursement to an informant with personal funds or money obtained from any other source.

All payments will be approved by the Criminal Investigation Bureau Manager. An officer and a supervisor shall witness the payment, and the receipt shall be signed by the informant. Copies of the receipt will be included in the informant's file and kept with records of special services/ undercover funds maintained by the Criminal Investigation Bureau Manager. Each informant receiving a cash payment shall be informed of his or her responsibility to report the cash payment to the Internal Revenue Service and Franchise Tax Board as income.

If funds distributed exceed $600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR § 1.6041-10). If such documentation or reporting may reveal the identity of the confidential informant and by doing so jeopardize any investigation, the safety of peace officers or the safety of the confidential informant (26 CFR § 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the 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.

605.11 REVISIONS

Enacted: December 17, 2007

Revised: July 8, 2009

Revised: April 25, 2012

Revised: May 23, 2016

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Revised: May 5, 2023

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Criminal Intelligence Collection and Maintenance

607.1 PURPOSE AND SCOPE

It is the policy of the Hayward Police Department to collect, process, maintain and, under proper circumstances, disseminate suspicious incidents and both developmental and criminal intelligence information on individuals, groups, associations and organizations who or which are: (1) subject of efforts to gather more information for legitimate law enforcement purposes or (2) reasonably suspected of definable criminal or terrorist activity. This effort is necessary to suppress criminal and/or terrorist activity and thereby provide for the safety and security of persons and property within the City of Hayward.

The purpose of this policy is to declare the intention of the Hayward Police Department to comply with the standards established by the California Attorney General Guidelines, Code of Federal Regulations, Title 28, Part 23 and the Law Enforcement Intelligence Unit (LEIU) Criminal Intelligence File Guidelines. These standards strike the proper balance between the needs of law enforcement to collect, apply and share intelligence in a manner that protects an individual's Constitutional rights and right of privacy.

607.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA standards: 42.1.6, 82.3.5

607.2 CRIMINAL INVESTIGATION BUREAU

A function of the Criminal Investigation Bureau is to collect, process, maintain and disseminate suspicious incidents and information on individuals, groups, associations and organizations reasonably suspected of definable criminal activity in order to suppress such activity. It is the responsibility of all Departmental personnel to report any suspicious incidents or criminal intelligence relating to criminal or homeland security activities to the Information and Intelligence Bureau. The objectives are:

(a) To provide intelligence support for Patrol and Special Operations with an emphasis on officer safety; and

(b) To develop strategic intelligence assessments designed to:

1. Identify criminal organizations which engage in, facilitate or otherwise support criminal activity which impacts the City of Hayward ;
2. Identify individuals who engage in criminal activity which impacts the City of Hayward ;
3. Provide guidance on the best use of resources to provide for control of individual and organized criminal activity which impacts the City of Hayward ; and
4. Provide insights into emerging crime trends which may impact the of City of Hayward.

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5. Collect, process and disseminate information related to suspicious incidents, which occur in/around the city limits.

(c) To enable the Department to cooperate with and participate in local, state and national intelligence initiatives which benefit the residents of the City of Hayward.

607.3 DEFINITIONS

Activity Which Endangers the Public: means any activity which is carried out on a scale which or in a manner which (or both) endangers the participants, any person observing or present during the activity or public or private property.

Criminal Activity: means any activity which violates federal statutes, state statutes, local ordinances or codes and is made a criminal act by such statutes, ordinances or codes.

Criminal Associate: means any person(s) who is reasonably suspected of knowingly supporting, assisting or facilitating criminal activity by a person(s), group, association or organization in any manner.

Criminal Intelligence File: means a file relating to a specific person, group, association or organization which contains criminal intelligence information that demonstrates a criminal predicate exists as to the person, group, association or organization. In this context "person" may include persons known to exist whose identities have not yet been ascertained.

Criminal Intelligence Information: means legally gathered factual data which has been analyzed to determine that it is relevant to the identification of or the criminal activity engaged in by person(s), groups, associations or organizations.

Criminal Intelligence System or Intelligence System: means the arrangements, equipment, facilities and procedures used for the gathering, analyzing, receipt, storage, access and dissemination of criminal intelligence information, criminal intelligence files, developmental information and developmental files, and the inter-jurisdictional pooling of the information contained in the individual agency files.

Criminal Predicate: means criminal intelligence information which supports the finding that there is reasonable suspicion to believe that a person(s), group, association or organization is engaged in definable criminal activity. This term is the standard by which the determination as to whether information may be used to create an intelligence file is made.

Developmental Information: means information about activity which endangers the public that is gathered for a legitimate law enforcement purpose.

Developmental (Temporary) File: means a file which contains developmental information on person(s), groups, associations or organizations which information is held and analyzed for a discrete period of time to determine whether a criminal predicate exists. Such files may also be known as "tips and leads", "working files" or "temporary files".

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Legitimate Law Enforcement Purpose: means information about activity which endangers the public and is gathered by law enforcement to determine whether a criminal predicate exists which would support the creation of an intelligence file.

Need to Know: means a state of facts that supports the legitimacy of access to specific intelligence by a person with a right to know. The need to know must be pertinent to and necessary to the performance of a specific law enforcement activity.

Reasonable Suspicion: means the state of known information which establishes sufficient facts to give a trained law enforcement officer, criminal investigator or employee a basis to believe that a person(s), group, association or organization is engaged in definable criminal activity or enterprise.

Right to Know: means having the legal status that allows the party to have access to criminal intelligence information. 28 CFR § 28.20(e) imposes the qualification that the right to know must be in "the performance of a law enforcement activity." Such status may be based on status as a law enforcement officer, investigator or employee or may be based on a court order, statute or a binding judicial decision if there is a need to know.

607.4 COMMAND AND CONTROL

(a) The Chief of Police of the City of Hayward or the Criminal Investigation Bureau Lieutenant shall be responsible for supervising the intelligence system and ensuring that these policies and procedures are enforced.

(b) The Chief of Police shall meet with the Criminal Investigation Bureau Lieutenant at least once a month or whenever the circumstances require. The purpose of this meeting shall be to inform the Chief of Police of the activities of the Intelligence Bureau and obtain guidance on issues that require executive level guidance.

(c) The Criminal Investigation Bureau Lieutenant shall have overall responsibility for all aspects of the intelligence system, including the training of Departmental personnel and auditing of the system. This person shall also be responsible for reviewing files to determine whether they have source and content validity as well as determining whether the files are current. The training of Department personnel will be accomplished on an individual or group basis depending upon the needs of the Department and will cover this entire policy.

607.5 DEVELOPMENTAL (TEMPORARY) FILES

(a) Developmental files may be created and used for the sole purpose of gathering information to determine whether there is reasonable suspicion that person(s), groups, associations or organizations as to whom or which the information is gathered are engaged in definable criminal activity which would permit the creation of an intelligence file. An individual, organization, business or group may be given "temporary" status in the following cases:

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1. Subject or entity is unidentifiable ''' The subject or entity, although suspected of being engaged in criminal activities, has no known physical descriptors, identification numbers, or distinguishing characteristics available.
2. Involvement is questionable ''' Involvement in criminal activities by a subject or entity is suspected which has either:
   (a) Possible criminal associations ''' Individual, organization, business, or group not currently reported to be criminally active but associates with a known criminal who is reasonably suspected of being involved in illegal activities.
   (b) History of criminal conduct ''' Individual, organization, business, or group not currently reported to be criminally active but has a history of criminal conduct; and the circumstances currently being reported (i.e., new position or ownership of a business) indicate they may have, again, become criminally active.
   (c) Reliability and/or validity unknown ''' The reliability of the information sources and/or the validity of the information cannot be determined at the time of receipt; however, the information appears to be significant and merits temporary storage while verification attempts are made.
   (d) Developmental (Temporary) files shall be "actively" worked in an effort to determine whether it should be added to the intelligence files or be destroyed. Failure to actively work and document the files progress will be grounds for the file in question to be destroyed.

(b) Developmental files shall be permitted for legitimate law enforcement purposes only and shall be maintained for a period of time not to exceed one (1) year.

(c) Developmental files shall not include information regarding political, religious, sexual information or social views, associations or activities unless such views, associations or activities are directly related to the activity which is believed to be criminal and which is the basis for creating the developmental file.

(d) Information placed in developmental files shall be information collected using only legal methods. Any information offered from any source which is known to have been or learned to have been unlawfully obtained shall be rejected or purged.

(e) In no case shall Criminal Offender Record Information (CORI) or Department of Motor Vehicle (DMV) data be incorporated into the intelligence file (Title 11 CFR Section § 703). The CORI/DMV files shall be kept at a separate location from the intelligence file system.

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(f) Developmental files shall be maintained in the same secure location as intelligence files, but shall not be commingled with intelligence files. Developmental files shall be subject to the same command and control requirements as intelligence files.

(g) Developmental files shall be assigned a discrete identifying number.

(h) The developmental file contents shall be governed by the same content evaluation rules as apply to intelligence files.

607.5.1 DISSEMINATION /ACCESS RULES FOR DEVELOPMENTAL FILES

(a) These files shall be accessed only on a need to know/ right to know basis.

(b) The Criminal Investigation Bureau Lieutenant shall determine who shall have access to these files.

(c) If access is granted by use of an intranet or internet connection with the authorized recipient that access shall be read only and no printing shall be permitted.

(d) If access is not remote it shall be granted in the secure area only and the file shall not be permitted to be removed from the secure area.

(e) Any printing or copying of developmental files or any portion of developmental files shall occur only if the Criminal Investigation Bureau Lieutenant approves. Both the request to print or copy and the approval shall be documented. The requesting party shall not be permitted to print or copy unless that party has demonstrated to the Hayward that that party has written policies and procedures in place which are at least as stringent as these policies and procedures. The requesting party shall agree in writing that it will not disseminate the developmental information received to a third party without notification to and consent from the Hayward.

(f) When a file is printed or copied the recipient party shall be given the discrete number assigned to that file.

(g) In all cases when there is an imminent threat of harm to persons or property, information in these files which might assist in preventing such harm shall be disseminated to persons, agencies or other entities, public or private who may be in such imminent danger or in a position to assist in preventing such harm.

607.5.2 PURGING OF DEVELOPMENTAL FILES RULES

(a) Developmental files shall be retained for no more than one year. If at the end of this period no criminal predicate has been established, or if the file contains inaccurate information, the file and all its contents shall be destroyed. Because of the requirements of Government Code Section § 26202 documents such as developmental files cannot be actually destroyed until two years after their creation. Therefore, a developmental file which does not become an intelligence file shall, at the end of the one year period:

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1. Be removed from the developmental file system;
2. Be sealed;
3. Be signed by the person sealing the file; and
4. Be stored in a secure location until actual destruction. In such situations, the discrete file number shall be retained and the file shall be identified by that number only. The developmental file system shall carry the notation that the file, identified by the discrete number, has been removed from the system and sealed. When the actual destruction occurs, the notation shall be changed to reflect the destruction of the file.

(b) Any and all persons/agencies other than Hayward personnel who were given access to a developmental file shall be notified that no criminal predicate was established and that the file has been destroyed. Copies of these notices shall be maintained by the Hayward. These notices shall use the discrete number rather than the name of any person(s), group, association or organization.

(c) Any persons/agencies given permission to print or copy all or any portion of the developmental file shall be notified as required by item 2 above and shall also be asked to provide written (paper or electronic) verification that the information has been purged from their system. Copies of that verification shall be maintained by the Criminal Investigation Bureau.

(d) In all cases the documents attesting to the destruction of developmental files shall use the discrete number assigned to the file instead of any identifier which could be traced to any person(s), group, association or organization.

607.6 CRIMINAL INTELLIGENCE FILES

(a) Criminal intelligence files shall be created and maintained as to persons, groups, associations and/or organizations only when there is reasonable suspicion that the subject(s) is/are engaged in definable criminal activity. A criminal intelligence file is only useful if its information is reliable, accurate and current. The two critical components of information to determine these values are:

1. The reliability of the source.
2. The validity of the content.

(b) Criminal intelligence files shall be maintained for a time period not to exceed five years unless:

1. Before the five year period has elapsed it is discovered that the information upon which the determination that reasonable suspicion existed was inaccurate or illegally obtained. In such situations the information which was inaccurate or illegally obtained shall be purged from the file and the file shall be reevaluated to

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determine whether the remaining information supports a finding of reasonable suspicion; if it does the edited file shall be retained, if it does not the entire file shall be destroyed.

2. Before the five year period has elapsed additional information that supports the initial reasonable suspicion determination or demonstrates an additional criminal predicate exists comes to the attention of the intelligence unit. In such cases, a new five year retention period shall start from the date of discovery of the additional information.

3. An intelligence file may be maintained for an indefinite period of time so long as there is information that demonstrates the continued validity of the criminal predicate or another criminal predicate within the last five years.

(c) Excluded Material: Only lawfully collected information, based on a reasonable suspicion of criminal activity, should be stored in criminal intelligence files. Information that shall be specifically excluded from criminal intelligence files includes:

1. Information on an individual or group merely on the basis that such individual or group supports unpopular causes.

2. Information on an individual or group merely on the basis of race, gender, age, sexual preference or ethnic background.

3. Information on an individual or group merely on the basis of religious or political affiliations or beliefs.

4. Information on an individual or group merely on the basis of personal habits and/or predilections that do not violate any criminal laws or threaten the safety of others.

5. Information on an individual or group merely on the basis of involvement in expressive activity that takes the form of non-violent civil disobedience that amounts, at most, to a misdemeanor offense.

6. In no case shall Criminal Offender Record Information (CORI) or Department of Motor Vehicle (DMV) data be incorporated into the intelligence file (Title 11 CFR § 703). The CORI/DMV file shall be kept at a separate location from the intelligence file system.

(d) Information contained in intelligence files shall be collected only using legal means. Any information offered from any source which is known to have been or is learned to have been illegally obtained shall be rejected or purged from the intelligence file(s).

(e) Intelligence files shall be maintained in a secure location which cannot be accessed by the public or agency personnel not assigned to the intelligence unit without the permission of the Criminal Investigation Bureau Lieutenant. Developmental files shall be maintained in the same secure location but separate from the intelligence files.

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1. The secure area shall be physically separate from other areas.
2. All files shall be maintained under lock and key or, if electronic, password protected. File access shall be limited to personnel assigned to the Intelligence Bureau unless another law enforcement officer or law enforcement agency employee has been granted access pursuant to another provision of these policies.
3. A log of persons requesting intelligence information from the Intelligence Bureau, after stating their lawful purpose, shall be maintained on a daily basis and shall be available for audit.
4. Each file maintained by the Intelligence Bureau, either developmental file or intelligence file, shall have an access log attached to it. This log, whether in paper or electronic form, shall show who has accessed the file, the date of the access and the purpose for the access. These access rules and log requirements shall apply to persons assigned to the Intelligence Bureau as well as all other persons. This file log shall be maintained on a daily basis and shall be available for audit.

(f) Each intelligence file shall be assigned a discrete number.

(g) File contents rules:

1. Each file shall contain copies of the source documents which were the basis for the finding that reasonable suspicion (or a legitimate law enforcement purpose) existed.
2. When additional information is added to the file copies of source documents shall also be added.
3. Information placed in the file shall be labeled for source reliability and content validity prior to its submission for entry into the file. The Intelligence Bureau manager or his/her designee will be responsible for approving all information contained in the file. Certain combinations of information standing alone will not support a finding of reasonable suspicion. (Examples would be an unreliable source which has provided information the content validity of which could not be judged or was doubtful). If reasonable suspicion has already been established from appropriate sources, then addition of information from an unknown source that cannot be judged as to content validity might be appropriate. It is difficult to justify adding information from an unreliable source that has doubtful or cannot be judged content validity to an existing file regardless whether reasonable suspicion has already been established.

    (a) Source reliability is based on the accuracy and consistency of the information provided by a given source. The categories of source reliability are:

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1. Reliable: The reliability of the source is unquestioned or has been tested in the past.
2. Usually reliable: The source of information can usually be relied upon. The majority of the information provided in the past has proved to be reliable.
3. Unreliable: The reliability of the source has been sporadic in the past.
4. Unknown: The reliability of the source cannot be judged; either experience or investigation has not yet determined authenticity or trustworthiness.

(b) Content validity is an assessment of the truthfulness of the information provided by the source. The categories of content validity are:

1. Confirmed: The information has been corroborated by an investigation or another reliable, independent source.
2. Probable: The information is consistent with past accounts or other information.
3. Doubtful: The information is inconsistent with past accounts or other information.
4. Cannot be Judged: The information cannot by judged as to its truthfulness because of lack of time to investigate it or its lack of relation to or corroboration by any other information.

(c) Re-evaluation of criminal intelligence should be an ongoing process and each file shall be continually re-evaluated by the assigned investigator. This process will re-evaluate and cull the information that has no potential to become intelligence matter from the rest of the information. The process will be dynamic and unique to each "batch" of information.

4. Each file shall contain the name of the person(s) who analyzed the information and a statement of the reasons on which that person(s) based his /her finding of reasonable suspicion (such reasons may include conclusions based on training or experience so long as the specific relevance of that training or experience is articulated).

5. Each file should describe the definable criminal activity of which the file subject is reasonably suspected (or articulate the public safety concern that underlies the legitimate law enforcement purpose). Examples would include the following:

(a) Narcotics Trafficking.

(b) Unlawful Gambling.

(c) Loan Sharking.

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(d) Extortion.

(e) Vice and Pornography.

(f) Infiltration of Legitimate Business for Illegitimate Purpose.

(g) Bribery.

(h) Major Crimes Including Homicide, Sexual Assault, Burglary, Destruction of Property, Auto Theft, Kidnapping, Robbery, Fraud, Fencing of Stolen Property and Arson.

(i) Manufacturing, Use, or Possession of Explosive Devices for purposes of Homicide, Mass Murder, Fraud, Intimidation, or Political Motivation.

(j) Threats to Public Officials or Private Persons.

(k) Gang Activity.

(l) Stolen Securities.

(m) Corruption of Public Officials.

6. Source documents should identify the agency, officer, and other identifiers such as case number, arrest number, etc.

7. If open source documents were employed as part of the process of determining whether reasonable suspicion exists, copies of such documents and information that permits verification of the existence of the open source should be in the file.

8. The file should contain all available identifying information which pertains to the file subject. A non-exhaustive list would include:

(a) The full name of the person, group, association or organization.

(b) Any aliases.

(c) Any nicknames or "monikers."

(d) Date of birth or historical information.

(e) Place of birth.

(f) Citizenship or membership data.

(g) Social Security number(s).

(h) Driver's license number(s).

(i) Physical descriptors including gender and ethnicity.

(j) Distinguishing marks, scars or tattoos.

(k) FBI, CII or any other criminal history identification numbers.

(l) Evaluations of violence potential or other officer/ citizen safety information.

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(m) Any other information helpful to identifying or locating the file subject. [In this connection so called "non-criminal identifying information" which relates to anyone who is not a known criminal associate should not be discoverable or searchable except as a "locator file" or "drop down" file under the name of the file subject.

(n) In no case shall files be categorized, sorted or otherwise quantified by ethnicity or gender; these factors shall only appear as factors relating to the identifying characteristics of a person. If a group, organization or association has made gender or ethnicity a determining factor in the membership or association then that characteristic of the group, organization or association may be noted in the files pertaining to that group, organization or association.

(o) In no case shall Criminal Offender Record Information (CORI) data be incorporated into the intelligence file (Title 11 CFR Section § 703). The CORI file shall be kept at a separate location from the intelligence file system.

9. All source information in the file should identify the date of submission of the information, the submitting agency and the submitting officer or employee. If the information came from a source other than law enforcement the same information should be entered except that proper considerations should be given to protect the identity of confidential informants and citizen informants.

10. Intelligence files should contain "feedback" information that allows evaluation whether the accessed/disseminated intelligence was useful or not useful, accurate or inaccurate.

(h) Intelligence file information may be made available to law enforcement officers or law enforcement agency employees who have both the "right to know" and "the need to know". The access/dissemination rules shall be the same for intelligence files as those set forth for developmental files and shall comply with the log maintenance provisions of this part.

607.7 INFORMATION CLASSIFICATION

Criminal Intelligence files should be classified to indicate the degree to which it is restricted in order to protect sources, open investigations, and to ensure the individuals rights to privacy.

(a) **Top Secret or Secret:** Highest level of security. Access limited to only those who possess the applicable federally granted Top Secret or Secret level clearance. Currently the positions who possess this clearance are the Investigation Division Commander, Criminal Investigation Bureau Lieutenant and the Terrorism Liaison Detective.

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(b) **Sensitive:** Substantial level of security. Access limited to those whose names appear on the cover sheet. Information, including, but not limited to, active police investigations, informant identification information, corruption, and those reports which require strict dissemination and release criteria.

(c) **Confidential:** Medium level of security. Access limited to Terrorism Liaison Detective / Intelligence personnel only.

(d) **Restricted:** Lowest level of security. Access limited to law enforcement personnel only. Information obtained through intelligence channels that is not classified as sensitive and is for law enforcement use only. Restricted information may include previously classified sensitive information for which the need for a high level of security no longer exists.

(e) **Unclassified:** Public Information. Information that is public in nature. This includes the following:

1. Information to which, in its original form, the general public has or had direct access (i.e., birth and death certificates).
2. News media information, such as newspaper, magazine, periodical clippings, and /or videotapes, dealing with specified criminal events.
3. Other open-source material (i.e., internet information).

607.8 DISSEMINATION /ACCESS RULES FOR CRIMINAL INTELLIGENCE FILES

(a) These files shall be accessed only on a need to know/ right to know basis in the performance of a law enforcement activity.

(b) The person directly in charge of the Intelligence Bureau and/or his/her designee shall determine who shall have access to these files.

(c) If access is granted by use of an intranet or internet connection with the authorized recipient, one of the following levels of security will be applied:

1. **Free Access:** Other parties may enter information to existing files without authorization. Other parties may not remove or alter existing information.
2. **Read-Only Access:** Other parties may see all or part of the existing information but may not enter information.
3. **"Pointer" Access:** Other parties may enter identifiers. If the result is a match to information in the file, they do not see the information, but instead are "pointed" to a contact.

(d) If intranet or internet access is not remote it shall be granted in the secure area only and the file shall not be permitted to be removed from the secure area.

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(e) Any printing or copying of criminal intelligence files or any portion of criminal intelligence files shall occur only if the person in charge of the Intelligence Bureau or his/her designee approves. Both the request to print or copy and the approval shall be documented. The requesting party shall not be permitted to print or copy unless that party has demonstrated to the Hayward Police Department that that party has written policies and procedures in place which are at least as stringent as these policies and procedures. The requesting party shall agree in writing that it will not disseminate the criminal intelligence information received to a third party without notification to and consent from the Hayward Police Department.

(f) When a file is printed or copied the recipient party shall be given the discrete number assigned to that file.

(g) In all cases when there is an imminent threat of harm to persons or property and information in these files which might assist in preventing such harm shall be disseminated to persons, agencies or other entities, public or private who may be in such imminent danger or in a position to assist in preventing such harm.

607.9 PURGING OF CRIMINAL INTELLIGENCE FILES RULES

Intelligence files shall be purged from the system using the rules for purge applicable to developmental files (refer to this policy) at that point in time when they are no longer current, accurate or otherwise reliable or when five years have expired without any additional information which could support the conclusion that the subject of the file is still engaged in definable criminal activity having been added to the file.

607.10 PROCEDURE AND PROCESS REQUIREMENTS

(a) Every twelve months the Hayward Police Department developmental and intelligence files shall be audited for compliance with these policies and procedures.

(b) Specific attention shall be paid to:

1. Whether all source documents are in the file.
2. Source information has been evaluated for source and content validity.
3. Whether a purge date has been established which is current and accurate.
4. Whether procedures and processes contained within this policy are in need of updating.

(c) This audit shall be conducted by the manager in charge of the Intelligence Bureau and shall be certified by him/her as a complete and accurate audit or, if the file size is too great to be completely audited, a complete audit of a representative sample of at least twenty (20) percent of the file shall be audited each year. When a percentage of the file only is audited a record of the control numbers of that percentage of the files shall be kept and the group of files shall not be audited again until the entire system has been audited.

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(d) This audit result shall be reported to the Chief of Police.

(e) If any files are found to be out of compliance with the requirements of these policies, those files shall be withdrawn from the system of which they are part, brought into compliance and re-evaluated to determine whether they may still be maintained as part of the files system.

607.11 SPECIALIZED EQUIPMENT

The Department will make available specialized equipment to support the intelligence-gathering function. Such equipment may include night vision devices, binoculars, cameras, cellular and audiovisual equipment, and unmarked vehicles. The Criminal Investigation Bureau Lieutenant will be responsible for controlling surveillance and undercover equipment owned or used by the Department.

607.12 REVISIONS

Enacted: February 18, 2009

Revised: July 5, 2009

Revised: April 9, 2013

Revised: May 23, 2016

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Eyewitness Identification

608.1 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).

608.1.1 ACCREDITATION

This section pertains to the following CALEA Standards: 42.2.11, 42.2.12

608.1.2 DEFINITIONS

Definitions related to the policy include:

Eyewitness Identification Process - Any field identification, live lineup or photographic identification.

Field Identificationor Show-Up - 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.

Double Blind Sequential Line-Up (DBSL)- A method intended to enhance the reliability of identification by eliminating unintentional investigator behavior and encouraging relative judgment. "Double blind" lineups are lineups conducted by officers who do not know which of the participants is the suspect. A "sequential" lineup is one in which the participants are presented to the witness one at a time. Specifically, the suspect or a "filler" steps out onto the stage and exits before the next participant steps out. In a sequential photo lineup, a single photo is shown to the witness and is removed before the next photo is shown.

608.2 POLICY

This Department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

608.3 INTERPRETIVE SERVICES

Officers should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating officer should explain the identification process to the interpreter. Once it is determined that the interpreter

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comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

608.4 EYEWITNESS IDENTIFICATION FORM

The Criminal Investigation 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 and any related forms or reports should provide:

(a) The date, time and location of the eyewitness identification procedure.

(b) The name and identifying information of the witness.

(c) The name of the person administering the identification procedure.

(d) If applicable, the names of all of the individuals present during the identification procedure.

(e) An admonishment that the suspect's photograph may or may not be among those presented and that the witness is not obligated to make an identification.

(f) An admonishment to the witness that the investigation will continue regardless of whether an identification is made by the witness.

(g) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.

The process and related forms should be reviewed at least annually and modified when necessary.

608.5 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).

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608.5.1 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS
The following considerations shall be followed:

(a) When practicable, the employee presenting the lineup to a witness should not be directly involved in the investigation of the case or know which photograph or person is the suspect. However, the composer of the lineup can be directly involved in the case.

(b) The employee who presents the lineup shall be equipped with a properly working audio or video recorder. Lineups shall be video or audio recorded.

(c) Prior to the presentation, each witness shall be admonished that he/she is not required to make an identification of any person shown during an eyewitness identification process. The eyewitness identification form shall be completed at this time.

(d) Other persons or photos ("fillers") used in any lineup should bear similar characteristics to the suspect to avoid causing him/her to unreasonably stand out. In cases involving multiple suspects, a separate lineup shall be conducted for each suspect. The suspects shall be placed in a different order within each lineup.

(e) The employee presenting the lineup to a witness shall do so sequentially and not simultaneously (i.e., show the witness one person at a time). The witness must view all persons in the lineup. Witnesses may not compare photographs.

(f) If a witness asks to see a particular photograph again, advise the witness that you must conduct the fully sequential line-up in order again. Then, proceed with conducting the sequential line-up in the same order.

(g) In cases with multiple witnesses, the order of the suspect photo and fillers shall be shuffled between each presentation before being presenting to each witness.

(h) If the witness identifies the suspect before the sequential line-up has been fully conducted, proceed with the lineup in sequential order.

(i) A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating officer should contact the appropriate prosecuting attorney before proceeding.

608.5.2 FIELD IDENTIFICATION CONSIDERATIONS
Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications. A field elimination or show-up identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the officer should observe the following guidelines:

(a) Obtain a complete description of the suspect from the witness.

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(b) Assess whether a witness should be included in a field identification process by considering:

1. The length of time the witness observed the suspect.
2. The distance between the witness and the suspect.
3. Whether the witness could view the suspect's face.
4. The quality of the lighting when the suspect was observed by the witness.
5. Whether there were distracting noises or activity during the observation.
6. Any other circumstances affecting the witness's opportunity to observe the suspect.
7. The length of time that has elapsed since the witness observed the suspect.

(c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.

(d) When feasible, officers should bring the witness to the location of the suspect, rather than bring the suspect to the witness.

(e) A person should not be shown to the same witness more than once.

(f) In cases involving multiple suspects, witnesses should only be permitted to view the suspects one at a time.

(g) A person in a field identification should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.

608.6 DOCUMENTATION

Prior to the eyewitness process, the officer shall ensure that the eyewitness identification form is complete.

A thorough description of the eyewitness process and the results of any eyewitness identification should be documented in the case report. Witness comments of how certain he/she is of the identification or non-identification should be quoted in the report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

608.6.1 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).

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608.6.2 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).

608.7 REVISIONS

Enacted: April 9, 2013

Revised: April 22, 2014

Revised: May 23, 2016

Revised and Modified by Directive: April 8, 2020

Revised: January 14, 2022

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Brady Material Disclosure

609.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called "Brady Information") to a prosecuting attorney.

609.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

609.1.2 DEFINITIONS

Definitions related to this policy include:

Brady Information - Information known or possessed by the Hayward Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

609.2 POLICY

The Hayward 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 Hayward Police Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Department will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

609.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor's office.

If information is believed to be privileged or confidential (e.g., confidential informant or protected personnel files), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

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

Supervisors who are uncertain about whether evidence or facts are material should address the issue with an appropriate prosecutor.

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609.4 DISCLOSURE OF PERSONNEL INFORMATION

Whenever it is determined that Brady information is located in the personnel file of a member of this Department who is a material witness in a criminal case, the following procedure shall apply:

(a) In the event that a Pitchess motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be notified of the potential presence of Brady information in the officer's personnel file.

(b) The prosecuting attorney should then be requested to file a Pitchess motion in order to initiate an in camera review by the court.

(c) Any member who is the subject of such a motion shall be notified in writing that a motion has been filed.

(d) The Custodian of Records shall accompany all relevant files during any in camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.

(e) If the court determines that there is relevant Brady information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.

1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

609.5 INVESTIGATING BRADY ISSUES

If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be immediately forwarded to the Internal Affairs Lieutenant and investigated and processed in accordance with the Personnel Complaints Policy.

609.6 TRAINING

Department members should receive periodic training on the requirements of this policy.

609.7 REVISIONS

Enacted: April 9, 2013

Revised: May 23, 2016

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Unmanned Aerial System (UAS) Operations

611.1 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.

611.1.1 DEFINITIONS

Definitions related to this policy include:

Certificate of Authorization (COA): Given by the Federal Aviation Administration (FAA) granting permission to fly the UAS within specific boundaries and perimeters.

Observer: A member of the Hayward Police Department or Hayward Fire Department who is trained and authorized to maintain visual observation of the UAS while in flight.

Operator: A member of the Hayward Police Department or Hayward Fire Department who is trained, certified, and authorized to control a UAS during flight.

Unmanned Aerial Vehicle (UAV): A small, unmanned aircraft weighing less than 55 lbs.

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.

611.2 POLICY

Unmanned aerial systems may be utilized to enhance the Hayward Police Department'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. UAS usage shall comply with the City's Statement of Values on Surveillance Technology.UAS will be available for cross-departmental use and requests will be evaluated on a case by case basis in accordance with the provisions set forth in this policy.

611.3 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.

611.4 PROGRAM COORDINATOR

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Unmanned Aerial System (UAS) Operations

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:

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:

(a) Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current.

(b) Ensuring that all authorized operators and required observers have completed all required FAA and Hayward Police Department-approved training in the operation, applicable laws, policies, and procedures regarding use of the UAS.

(c) 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.

(d) Developing protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.

(e) Implementing a system for public notification of UAS deployment.

(f) 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.

(g) Developing a protocol for fully documenting all missions.

(h) 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.

(i) Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored, and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

(j) Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.

(k) Facilitating law enforcement access to images and data captured by the UAS.

(l) Recommending program enhancements, particularly regarding safety and information security.

(m) Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief of Police.

611.5 ROLES AND RESPONSIBILITIES

The roles and responsibilities for UAS Program members are as follows:

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Program Coordinator—a Hayward Police Lieutenant who manages the UAS Program and ensures the program operates in accordance with all Federal, State, and local laws, and within department policy and guidelines. In addition, the Program Coordinator will:

- Maintain all training flight and maintenance records for each operator and observer, as well as individual airframes.
- Ensure operators and observers stay current with their training and certifications.
- Maintain contact with the FAA and familiarity with the pertinent FAA regulations.
- Evaluate airframes based on mission needs.
- Remain up to date with current UAS case law, best practices, and industry standards.
- Develop and maintain the UAS Operations Manual.

Operator—the Operator's role is to safely operate the UAS in accordance with all applicable law and policy.

- The operator may reject a flight based on personnel safety, violation of FAA regulations, or requests outside of the scope of the authorized uses outlined in this policy.
- The operator shall be responsive to requests and input from the observer in order to accomplish the safe and effective deployment of the UAS.
- Operators are responsible for mission documentation and updating the flight book.

Observer—the Observer's role is to assist in the safe and effective operation of the UAS. The observer shall:

- Assist the Operator in avoiding obstacles.
- Operate any attachments to the UAS.
- Remain alert for safety issues surrounding the Operator and Observer.
- Handle radio communications.

611.6 USE OF UAS

The UAS will only be used in situations where reasonable suspicion exists, pursuant to a warrant, or during situations where exigent circumstances exist or where public safety needs outweigh privacy expectations. This policy may not encompass every situation officers will encounter in the field and deviations may be necessary and justified. Any deviations from this policy will be reviewed on a case-by-case basis.

The Chief of Police, Deputy Chief, Captain, or Watch Commander may authorize the deployment of the UAS under the following circumstances:

Mass casualty events;

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(a) Public safety and life preservation missions including, barricaded suspects, hostage situations, active shooters, apprehension of armed and dangerous fleeing suspects, and high-risk search warrants;

(b) Mass casualty events

(c) Lost or missing persons;

(d) Search and rescue events;

(e) Disaster response and recovery;

(f) Suspected explosive devices;

(g) Fire suppression or investigation;

(h) Hazardous material releases;

(i) Post-incident crime scene preservation and documentation;

(j) Pursuant to a search warrant;

(k) Mass gatherings or special events where security concerns exist or criminal activity is occurring;

(l) When there is probable cause to believe that the UAS will record images of a place, thing, condition, or event, and that those images show a felony has been committed, or shows that a particular person has committed a felony.

(m) Anti-UAV operations when a person is operating a UAV in a manner which impedes emergency personnel who, in the course of their duties, are coping with an emergency (refer to Penal Code § 402(a)1);

(n) Training missions;

(o) In support of the Hayward Fire Department when the underlying mission meets the uses outlined in this policy; and

(p) Mutual Aid support when the underlying mission meets the uses outlined in this policy

611.6.1 CALLOUT PROCEDURE

(a) The Watch Commander shall make a request via dispatch for qualified UAS team members to respond and deploy the UAS.

    (a) Dispatch will call the UAS Program Coordinator, or a designee, who will coordinate the callout details with team members.

    (b) If the UAS Program Coordinator is unavailable, or if specified by the Watch Commander, Dispatch will request assistance from and allied agency or the Hayward Fire Department via ACRECC.

(b) The UAS team members will handle all UAS operations, notifications and all necessary pre- flight guidelines as specified in the UAS Operations Manual.

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611.7 EVIDENCE COLLECTION AND RETENTION

(a) Following a UAS operation by the Hayward Fire Department or the Hayward Police Department, a Hayward PD case agent or officer shall meet with the UAS operator to collect the UAS video(s). The video(s) recorded by the Fire Department and/or the Police Department will be uploaded into the approved digital evidence management system. The collection and uploading of the video(s) will be documented in a report by a Hayward PD case agent or officer.

(b) Data collected by the UAS shall be retained as provided in the established Police Department records retention schedule or retained as evidence of a crime.

(c) Unauthorized use, duplication, and/or distribution of UAS videos are prohibited. Personnel shall not make copies of any UAS videos for their personal use and are prohibited from using a recording device such as a personal camera or any secondary video camera to capture UAS videos. All recorded media, images and audio are the property of the Hayward Police Department and shall not be copied, released or disseminated in any form or manner outside the parameters of this policy without the expressed written consent of the Chief of Police.

(d) Departmental request for a UAS video, including requests from the District Attorney's Office or City Attorney's Office, shall be forwarded as a written request via e-mail, to the Property Unit, with sufficient information to locate the UAS video.

(e) Non-Departmental Requests for a UAS video shall be accepted and processed in accordance with Federal, State, and local laws, and departmental policy (discovery, media inquiries, subpoenas, Public Records Act requests, etc.).

1.).CPRAWhen practical, Department personnel will be advised prior to any release of UAS video under the California Public Records Act (

(f) Request for Deletion or Accidental Recording

1. In the event of an accidental activation and recording of the UAS camera system, the recording employee may request that the UAS video is deleted by submitting an e-mail request to the Special Operations Lieutenant with sufficient information to locate the UAS video. The Special Operations Lieutenant shall review the video, approve or deny the deletion request, and forward to the System Administrator for action if applicable.

2. Videos made during authorized department training will be viewed and/or retained for training purposes and then may be retained or deleted with the authorization of the Special Operations Lieutenant. Retained files will be stored in approved training files or the digital management system.

(g) Copying Procedure

1. A copy of the UAS video can be requested in accordance with the provisions of this policy.

2. Property Officers will be responsible for handling evidence request for DVD copies and online sharing of videos produced by the UAS camera system for court and other approved request by the Chief of Police or a designee.

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(h) A UAS video may be utilized as a training tool for individuals, specific units, and the department as a whole. A recommendation to utilize a UAS video for such purpose may come from any source outlined below:

1. A person recommending utilization of a UAS video for training purposes shall submit the recommendation through the chain of command to the Watch Commander.
2. The Watch Commander approving the utilization of a UAS video for training will send an email to Property requesting a copy of the video is placed in the UAS Training file on the t: drive. This file will hold all training videos. Videos may not be moved to other files, copied, or sent beyond this file.
3. If an involved officer or employee objects to the showing of a UAS video, the objection will be submitted to their supervisor to determine if the employee's objections outweigh the training value. The Special Operations Lieutenant or Division Commander shall review the recommendation and determine how best to utilize the UAS video file considering the identity of the person(s) involved, sensitivity of the incident, and the benefit of utilizing the video versus other means (e.g., departmental policy, Training Bulletin, Officer Safety Bulletin, briefing or other training).

611.8 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

(a) To conduct random surveillance activities.

(b) To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.

(c) To harass, intimidate, or discriminate against any individual or group.

(d) To conduct personal business of any type.

(e) The UAS shall not be weaponized.

(f) The UAS shall not have facial recognition technology.

(g) To conduct routine monitoring of a mass gathering, protest, or demonstration where security concerns do not exist or where criminal activity is not occurring.

611.9 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established records retention schedule. Consistent with data collected by other departmental audio or video recorders (e.g., body worn cameras), recordings shall be retained in a data management system where they are accessible for review and use strict to the guidelines pursuant to this policy. Access to recordings is automatically logged and can be audited.

Recordings that contain evidentiary value shall be retained in the same manner as any other evidence gathered during a criminal investigation. Recordings that contain administrative or

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evidentiary value shall be retained for up to 5 years or until administrative or criminal proceedings are finalized.

For all non-criminal recordings, the retention of recording media will be 90 days provided it remains unassociated to any criminal or administrative investigations.

611.10 REVISIONS

ISSUED: March 17, 2022

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Chapter 7 - Equipment

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Department Owned and Personal Property

700.1 PURPOSE AND SCOPE

Department employees are expected to properly care for Department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or Department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

700.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 81.3.1

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 PERSONALLY OWNED PROPERTY

Claims for reimbursement for damage or loss of personally owned property must be made filing a written report outlining what was damaged or lost and how it occurred. This form is submitted to the employee's immediate supervisor.

The supervisor shall direct a memo to the appropriate Division Commander, which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

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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 REQUIREMENTS
A verbal report advising of any loss, damage to, or unserviceable condition of any Department issued or personally owned property or equipment assigned for their use 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 Departmental or personally owned property of another while performing their duties. Any employee who damages or causes to be damaged any Departmental or personally owned property of another while performing any law enforcement functions, regardless of jurisdiction, shall provide a verbal report 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.

700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY
If employees of another jurisdiction cause damage to Department issued or personally owned property, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit. The employee shall submit a written report before going off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate Division Commander.

700.5 REQUESTING NEW DEPARTMENTAL PROPERTY ACQUISITIONS

Any employee may propose a request for acquisition of City property if he/she believes that it would increase the efficiency or effectiveness of the Department. Employees who request new Departmental property acquisitions in furtherance of performing essential job functions shall submit a written memorandum and HPD transmittal form through his/her chain of command describing the need, specific items requested and justification. If the Division Commander or Support Services Manager receiving the request determines the acquisition is unnecessary or inappropriate for use, he/she will notate that on the transmittal form with an explanation. If the Division Commander or Support Services Manager agrees that the acquisition has potential merit, it will then be submitted to Command Staff for review and approval. Regardless of what decision is made, a copy of the transmittal form and associated documents will be forwarded back to the originator for his/her information.

Command Staff will review the requisition request for:

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- Completeness
- Fiscal accountability
- Conflict with existing Departmental property or current procedures
- Compatibility with existing City property
- Other factors based on the item(s) requested, as appropriate

If Command Staff rejects the requisition request, the Division Commander or Support Services Manager will return the form to the originator with an explanation and/or request for the correction of deficiencies, as appropriate. If/when corrections are requested, it will be resubmitted following the above listed format.

When Command Staff approves a new acquisition of City property, a manager will be assigned to facilitate the acquisition and retention process.

700.6 REVISIONS

Enacted: December 17, 2007

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Revised: April 25, 2012

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Revised: May 23, 2016

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Personal Communication Devices

701.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of City owned and issued mobile telephones and those personally owned and used during work hours. The Hayward Police Department is committed to being fiscally responsible for costs associated with telephones and telephone service plans for those phones that it owns and maintains.

This policy generically refers to all such devices as Personal Communication Devices (PCD) but is intended to include all mobile telephones, personal digital assistants (PDA) 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, e-mailing, using video or camera features, playing games and accessing sites or services on the Internet.

701.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 17.5.1, 17.5.2, 17.5.3, 41.3.4

701.2 POLICY STATEMENT

The Hayward Police Department expects and/or allows employees to utilize Department-issued and personally owned mobile telephones in the workplace, subject to certain limitations.

City-owned mobile telephone and communications equipment is for official business only. Limited personal use within the following two categories is permissible:

- Use in the interest of the City: Examples include alerting household members of unexpected schedule changes; managing child care; contacting medical staff; contacting businesses or agencies that are only available during normal work hours; and managing emergency repairs to vehicles or residences.
- Other: Personal needs arising during duty hours when the use does not incur additional charges to the City.

Acceptable personal use of City mobile telephones must be of brief duration, address needs that cannot reasonably be handled during non-duty hours, and shall not adversely affect work performance.

Personally-owned mobile telephone and communications equipment can also be used during work hours but are subject to the following exclusions:

- Use in the interest of the City: Costs associated with the use of personally-owned mobile telephone and communications equipment will not be borne by the Department or the City of Hayward.
- Other: Personal needs arising during duty hours when the use does not interfere with identified work tasks or product.

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701.3 DEPARTMENT MOBILE TELEPHONE EQUIPMENT

Appropriate mobile equipment and services will be provided to Department employees based on their job assignment as determined necessary by the Chief of Police. Issuance of equipment will be handled by the designated Departmental Mobile Phone Manager.

- Employees issued a mobile telephone will sign an Equipment Issue Record which will include an acknowledgement of the provisions of this policy, and will be filed in their training record.
- Any employee issued a mobile telephone will carry it at all times while on duty and for the duration of any on-call assignment.

In lieu of carrying a City issued mobile telephone, employees in these selected positions may opt to carry their personal phone. This option requires the employee to make their personal telephone number available and, in most cases, connect their phone to the City's corporate email server. There is no City reimbursement for selecting this option.

701.4 REQUIREMENTS FOR HANDS FREE USE OF A MOBILE TELEPHONE WHILE DRIVING

Whether an employee uses a city-owned mobile telephone or his/her personally-owned mobile telephone while driving, the use of a hands-free Bluetooth device shall be required. Employees shall comply with all rules of the road as outlined in the California Vehicle Code (CVC). Costs associated with the purchase and use of a hands-free Bluetooth device will not be borne by the Department or the City of Hayward.

701.5 PRIVACY RIGHTS, AUDITS AND OVERSIGHT FOR MOBILE TELEPHONE EQUIPMENT

All documentation resulting from the use of a City owned telephone is a public record.

Employees shall have no expectation of privacy with regard to any communication made with or stored in or through mobile telephones 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 mobile telephone, 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.

Individual phone use will be reviewed on a regular and as-needed basis by the Chief of Police or his/her designee. When phone use exceeds expectations in a given period, the employee may be asked to review and identify their phone activity.Additionally, review of phones for usage and content may be unannounced.

Inappropriate use of City telephones may result in disciplinary action up to and including employment termination.

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Any mobile telephone use, either on or off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection.

The inappropriate use of a mobile telephone while on-duty may impair officer safety. Additionally, employees are advised and cautioned that the use of a personally owned mobile telephone either on-duty or after duty hours for business-related purposes may subject the employee and the employee's mobile telephone records to civil or criminal discovery or disclosure under applicable public records laws.

Employees who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

701.6 USE OF PERSONAL COMMUNICATION DEVICES

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

(a) A PCD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.

(b) All PCDs in the workplace shall be set to silent or vibrate mode.

(c) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Employees shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.

(d) Employees may use a PCD to communicate with other personnel in situations where the use of the radio is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid or in lieu of regular radio communications.

(e) Officers are prohibited from taking pictures, video or making audio recordings or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief of Police or the authorized designee, may result in discipline.

(f) Employees will not access social networking sites for any purpose that is not official department business.

(g) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any employee having knowledge of such conduct shall promptly notify a supervisor.

701.7 SUPERVISORY RESPONSIBILITIES

Supervisors should ensure that members under their command are provided appropriate training on the use of PCDs consistent with this policy. Supervisors should monitor, to the extent practicable, PCD use in the workplace and take prompt corrective action if an employee is

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observed or reported to be improperly using a PCD. An investigation into improper conduct should be promptly initiated when circumstances warrant.

If, when carrying out any provision of this policy, the need to contact an employee who is off-duty arises, supervisors should consider delaying the contact, if practicable, until the employee is on-duty, as such contact may be compensable.

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.

Except in an emergency, non-sworn members who are operating department vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use (Vehicle Code § 23123; Vehicle Code § 23123.5). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

701.9 OFFICIAL USE

Employees are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, employees shall conduct sensitive or private communications on a land-based or other department communications network.

The following situations are examples of when the use of a PCD may be appropriate:

(a) Barricaded suspects

(b) Hostage situations

(c) Mobile Command Post

(d) Catastrophic disasters, such as plane crashes, earthquakes, floods, etc.

(e) Major political or community events

(f) Investigative stakeouts

(g) Emergency contact with an allied agency or allied agency field unit

(h) When immediate communication is needed and the use of the radio is not available or appropriate and other means are not readily available

701.10 REVISIONS

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Personal Communication Devices

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Vehicle Maintenance

702.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

702.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 17.5.3, 41.3.1, 41.3.2

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.

702.3 VEHICLE EQUIPMENT AND REPLENISHMENT PRACTICES

Certain items shall be maintained in all Department vehicles for emergency purposes and to perform routine duties. Replenishment items will be stored within the Department if a particular item has been used, exhausted or damaged. Employees utilizing a Departmental vehicle shall first perform a safety and inventory check of the vehicle to determine the presence of required equipment. If an item requires replacement, the employee shall replace it before leaving Departmental property.

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:

- Box of emergency road flares
- Yellow crayon or chalk
- Roll of barricade "police line - do not cross" tape
- First aid kit
- Fire extinguisher
- Personal protective equipment pursuant to the Communicable Disease and Body Armor policies
- Orange Blankets (minimum 2)
- Traffic Control Vest
- Current version of the Hazardous Materials Response Handbook

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702.3.2 UNMARKED VEHICLES
An employee driving unmarked Department vehicles shall ensure that the minimum following equipment is present in the vehicle:

- Box of emergency road flares
- Roll of barricade tape
- First aid kit
- Fire extinguisher
- Orange Blankets (minimum 2)
- Traffic Control Vest

702.4 VEHICLE REFUELING
Absent emergency conditions or supervisor approval, employees driving city owned or leased vehicles shall not place a vehicle in service that has less than one-quarter tank of fuel. Vehicles shall only be refueled pursuant to the Hayward Police Department Fueling of City Owned and Leased Vehicle procedure.

702.5 WASHING OF VEHICLES
All Departmental vehicles shall be kept clean at all times and weather conditions permitting, shall be washed as necessary to enhance their appearance.

No more than two marked units should be at the off-site car wash at the same time unless otherwise approved by a supervisor.

Employees using Departmental vehicles shall remove any trash or debris at the end of their shift. Confidential material no longer needed should be placed in a designated receptacle provided for the shredding of this matter.

702.6 PROFESSIONAL STAFF EMPLOYEE USE
Professional staff employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Professional staff employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

702.7 REVISIONS
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Vehicle Use

703.1 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 Hayward to provide assigned take-home vehicles.

703.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.1.3

703.2 POLICY

The Hayward 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.

703.3 USE OF VEHICLES

City-owned vehicles shall only be used for official business and, when approved, for commuting to allow members to respond to department-related business outside their regular work hours.

Members shall not operate a City-owned vehicle at any time when impaired by drugs and/or alcohol.

Any member operating a vehicle equipped with a two-way communications radio, MDC and/or a GPS device shall ensure the devices are on and set to an audible volume whenever the vehicle is in operation.

703.3.1 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.

703.3.2 UNSCHEDULED USE OF VEHICLES

Members utilizing a City-owned vehicle for any purpose other than their regularly assigned duties shall first notify the Watch Commander of the reason for use and a notation will be made on the shift roster indicating the operator's name and vehicle number. This section does not apply to members permanently assigned an individual vehicle (e.g., command staff, detectives), who regularly use the vehicle on an unscheduled basis as part of their normal assignment.

703.3.3 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

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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.

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.

703.3.4 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.

703.3.5 MDC

Members assigned to vehicles equipped with a Mobile Digital Terminal (MDC) shall log onto the MDC with the required information when going on-duty. If the vehicle is not equipped with a working MDC, the member shall notify the Communications Center. Use of the MDC is governed by the Mobile Digital Terminal Use Policy.

703.3.6 PARKING

Except when responding to an emergency or other urgent official business requires otherwise, members driving City-owned vehicles should obey all parking regulations at all times.

City-owned vehicles should be parked in their assigned stalls. Members shall not park privately owned vehicles in any stall assigned to a City-owned vehicle or in any other areas of the parking lot that are not designated as a parking space unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

703.3.7 INSPECTIONS

The interior of any vehicle that has been used to transport any person other than a member should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any suspect, prisoner or arrestee, the transporting officer shall search all areas of the vehicle that are accessible by the person before and after the person is transported.

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703.3.8 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.

703.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES

[Department/Office] 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.

The assignment of vehicles may be suspended when the member is unable to perform the member's regular assignment.

703.5 KEYS AND SECURITY

All uniformed field members approved to operate marked patrol vehicles should be issued a copy of the unit key as part of their initial equipment distribution upon hiring. Officers shall not duplicate keys.

Members assigned a permanent vehicle should be issued keys for their assigned vehicle.

The loss of any key shall be promptly reported in writing through the member's chain of command.

703.6 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 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.

703.7 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles.

Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage. It is the assigned member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.

Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with policy.

703.7.1 ACCESSORIES AND/OR MODIFICATIONS
No modifications, additions or removal of any equipment or accessories shall be made to the vehicle without written permission from the Division Commander.

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703.8 VEHICLE DAMAGE, ABUSE AND MISUSE

When a City-owned vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic collision report shall be filed with the agency having jurisdiction (see also Traffic Collision Reporting Policy).

When a collision involves a City vehicle or when a member of this department is an involved driver in a collision that occurs in this jurisdiction, and the collision results in serious injury or death , the supervisor should request that an outside law enforcement agency be summoned to investigate the collision.

The member involved in the collision shall complete the City's vehicle collision form. If the member is unable to complete the form, the supervisor shall complete the form.

Any damage to a vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in memorandum format and forwarded to the Watch Commander. An administrative investigation should be initiated to determine if there is any vehicle abuse or misuse.

703.9 TOLL ROAD USAGE

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating [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.

703.10 REVISIONS

Enacted: December 17, 2007

Revised: February 18, 2009

Revised: July 8, 2009

Revised: August 13, 2010

Revised: April 25, 2012

Revised: April 9, 2013

Revised: April 22, 2014

Revised: May 23, 2016

Revised: June 6, 2018

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Vehicle Use

Revised: March 9, 2023

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Special Purpose Vehicles

704.1 PURPOSE AND SCOPE

The purpose of this policy is to describe Special Purpose Vehicles, the authorization of their use, and other factors pertaining to the personnel who use or maintain such vehicles. Incorporated in this section is the Operational Readiness and Inspections policy.

704.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 17.5.3, 41.1.3, 41.3.2

704.1.2 AUTHORIZATION, CONDITIONS AND LIMITATIONS OF USAGE

Personnel shall only be authorized to operate Department Special-Purpose Vehicles when they have completed the training required by the Department, POST, and the Department of Motor Vehicles, (as appropriate), except during authorized training activities approved by the Chief of Police or his/her designee.

Other conditions and limitations may be imposed and they are listed in the following subsections of this policy.

704.2 MOTORCYCLES

Personnel shall only be authorized to operate Department motorcycles when they have completed the training required by the Department of Motor Vehicles, POST, and the Department, except during authorized training activities approved by the Chief of Police or his/her designee. In addition, all motorcycle operators must possess a valid class M1 license and be assigned to the Special Operations Division Traffic Bureau and be selected to operate a police motorcycle. Motorcycles shall only be used when roadway and weather conditions allow for safe operation.

Street Motorcycles are deployed for the primary purpose of traffic enforcement. The Traffic Bureau Sergeant is responsible for the control and deployment of the street motorcycles. Off-Road Motorcyles may be used for off road enforcement.

704.3 BICYCLES

Personnel shall only be authorized to operate Department bicycles when they have completed the Basic Police Cyclist bicycle training required by the California Peace Officers Standards and Training (POST), except during authorized training activities. In addition, all uniformed officers utilizing bicycles shall wear an authorized Departmentally issued helmet.

704.4 TACTICAL RESCUE VEHICLE

The Hayward Police Department operates a Tactical Rescue Vehicle (TRV), which is housed at the Department. The access, required training, and use of the Tactical Rescue Vehicle are maintained by the Special Response Unit Commander.

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704.5 SPECIAL RESPONSE UNIT TOOL TRUCK

The SRU Tool Truck is a truck containing equipment and resources for the Hayward personnel serving on the SRU Team. Identified SRU team members are trained and authorized to operate the van to respond to an incident or training site.

704.6 MOBILE INCIDENT COMMAND VEHICLE

The Mobile Command Vehicle is designed to respond to a long term and/or critical incident. The Mobile Command Vehicle brings a number of resources to the scene in a climate-controlled environment including communication capabilities, radios, telephones, mobile command documents and supplies. This vehicle will also support the Crisis Negotiations Team.

Identified SRU team members and Communications tactical dispatchers staff that are specially trained to operate the vehicle are authorized to respond to an incident or training site. Non-trained staff with a valid California "Class C" Driver's License can drive the vehicle to the incident or training site only if an identified SRU team member or tactical dispatcher member is onboard. A list of identified personnel, along with their training records, policy/procedures and vehicle keys will be kept in a binder in the Communications Center. A "check-in, check-out" log will be contained in this binder where qualified personnel will be required to sign in/out every time the vehicle is used. The Communications Administrator will audit and maintain this binder on an annual basis.

The Communications Bureau is responsible for the management and maintenance of this vehicle. The Communications Administrator is the primary contact for deployment of the Mobile Command Vehicle.

Refer to the Mobile Incident Command Vehicle procedure for additional guidelines.

704.7 TRAILERS

The Hayward Police Department operates a number of trailers. The following is a list of trailers and uses:

Range Trailer: The range trailer is designed and equipped to support firearms training to sworn Department personnel. A designated Patrol Watch Commander is responsible for the operations of this trailer and for ensuring that training is provided to range instructors deploying the trailer.

DUI Trailer: The DUI Trailer is primarily designed and equipped to support DUI and other Traffic Bureau checkpoints. The Traffic Bureau Sergeant is the primary contact for the deployment of the DUI Trailer.

EVOC/PIT Trailer: The EVOC/PIT trailer is primarily designed and equipped to support driver training activities for sworn employees. A dedicated Watch Commander overseeing the driver training program is the primary contact for the deployment of the EVOC/PIT Trailer.

Motorcycle Transport Trailer: The Motorcycle Transport Trailer is primarily designed and equipped to support Traffic Bureau operations where Department motorcycles need to be trailered. The Traffic Bureau Sergeant is the primary contact for the deployment of the Motorcycle Transport Trailer.

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Sign Trailers: The Changeable Sign Radar Trailers (2) are primarily designed and equipped to support DUI and other Traffic Bureau checkpoints, accident scenes, and critical incident scenes. The Traffic Bureau Sergeant is the primary contact for the deployment of the DUI Trailer.

Tow Vehicles: A designated Patrol Watch Commander is responsible for identifying the appropriate tow vehicles for the trailers operated by this Department. The Patrol Watch Commander will ensure that a primary and secondary tow vehicle is available for the Mobile Command Post.

704.8 TRAINING

Personnel assigned or approved to operate any Special Purpose Vehicle must be trained on the use of the vehicle. Personnel assigned to operate Special Purpose Vehicles requiring specialty licenses must have secured those licenses before operating them in the performance of their duties, except during authorized training activities approved by the Chief of Police or his/her designee.

704.9 RESPONSIBILITY

Each manager or supervisor having authority over a Special Purpose Vehicle will assign one or more dedicated employees to be responsible for the condition and maintenance of the vehicle. Each Special Purpose Vehicle containing equipment will have a clipboard with an inventory log of equipment contained within it and an inventory log checklist, which will be checked quarterly to verify that all equipment is contained within and in operable condition.

704.10 EQUIPMENT LISTING

The Hayward Police Department maintains a "Special Purpose Vehicle Equipment Log." This log itemizes what equipment is stored in each Special Purpose vehicle. This log will be used when inspecting or performing an inventory check on a Special Purpose vehicle.

704.11 REVISIONS

Enacted: August 21, 2009

Revised: February 7, 2010

Revised: July 13, 2010

Revised: September 19, 2014

Revised: March 31, 2015

Revised: May 23, 2016

Revised: August 2, 2019

Revised: September 1, 2019

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Personal Protective Equipment

705.1 PURPOSE AND SCOPE

This policy identifies the different types of personal protective equipment (PPE) provided by the [Department/Office] as well the requirements and guidelines for the use of PPE.

This policy does not address ballistic vests or protection from communicable disease, as those issues are addressed in the Body Armor and Communicable Diseases policies.

705.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 17.5, 41.3, 46.1, 53.1.

705.1.2 DEFINITIONS

Definitions related to this policy include:

Personal protective equipment (PPE) - Equipment that protects a person from serious workplace injuries or illnesses resulting from contact with chemical, radiological, physical, electrical, mechanical or other workplace hazards.

Respiratory PPE - Any device that is worn by the user to protect from exposure to atmospheres where there is smoke, low levels of oxygen, high levels of carbon monoxide, or the presence of toxic gases or other respiratory hazards. For purposes of this policy, respiratory PPE does not include particulate-filtering masks such as N95 or N100 masks.

705.2 POLICY

The Hayward Police Department endeavors to protect members by supplying certain PPE to members as provided in this policy.

705.3 OFFICER RESPONSIBILITIES

Members are required to use PPE as provided in this policy and pursuant to their training.

Members are responsible for proper maintenance and storage of issued PPE. PPE should be stored in an appropriate location so that it is available when needed.

Any member who identifies hazards in the workplace is encouraged to utilize the procedures in the Illness and Injury Prevention Policy to recommend new or improved PPE or additional needs for PPE.

705.4 HEARING PROTECTION

Approved hearing protection shall be used by members during firearms training.

Hearing protection shall meet or exceed the requirements provided in 8 CCR 5098.

705.5 EYE PROTECTION

Approved eye protection, including side protection, shall be used by members during firearms training. Eye protection for members who wear prescription lenses shall incorporate the

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prescription (e.g., eye protection that can be worn over prescription lenses). Members shall ensure their eye protection does not interfere with the fit of their hearing protection.

The Rangemaster shall ensure eye protection meets or exceeds the requirements provided in 8 CCR 3382.

705.6 HEAD AND BODY PROTECTION

Members who make arrests or control crowds should be provided head protection with an attachable face shield.

Padded body protection consisting of chest, arm, leg and groin protection should be provided if required by any collective bargaining agreement.

705.7 RESPIRATORY PROTECTION

The Support Services Division Commander is responsible for ensuring a respiratory protection plan is developed and maintained by a trained and qualified member. The plan should include procedures for (8 CCR 5144):

(a) Selecting appropriate respiratory PPE based on hazards and risks associated with functions or positions.

(b) Fit testing, including identification of members or contractors qualified to conduct fit testing.

(c) Medical evaluations.

(d) PPE inventory control.

(e) PPE issuance and replacement.

(f) Cleaning, disinfecting, storing, inspecting, repairing, discarding and otherwise maintaining respiratory PPE, including schedules for these activities.

(g) Regularly reviewing the PPE plan.

(h) Remaining current with applicable National Institute for Occupational Safety and Health (NIOSH), American National Standards Institute (ANSI), Occupational Safety and Health Administration (OSHA), Environmental Protective Agency (EPA) and state PPE standards and guidelines.

705.7.1 RESPIRATORY PROTECTION USE

Designated members may be issued respiratory PPE based on the member's assignment (e.g., a narcotics investigator who is involved in clandestine lab investigations).

Respiratory PPE may be worn when authorized by a scene commander who will determine the type and level of protection appropriate at a scene based upon an evaluation of the hazards present.

Scene commanders are responsible for monitoring members using respiratory PPE and their degree of exposure or stress. When there is a change in work area conditions or when a member's degree of exposure or stress may affect respirator effectiveness, the scene commander shall

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reevaluate the continued effectiveness of the respirator and direct the member to leave the respirator use area when the scene commander reasonably believes (8 CCR 5144):

(a) It is necessary for the member to wash his/her face and the respirator facepiece to prevent eye or skin irritation associated with respirator use.

(b) The member detects vapor or gas breakthrough, or there is a change in breathing resistance or leakage of the facepiece.

(c) The member needs to replace the respirator, filter, cartridge or canister.

705.7.2 GAS MASK

Full-face air-purifying respirators, commonly referred to as gas masks, may be fitted with mechanical pre-filters or combination cartridge/filter assemblies for use in areas where gases, vapors, dusts, fumes or mists are present. Members must identify and use the correct cartridge based on the circumstances (8 CCR 5144).

A scene commander may order the use of gas masks in situations where the use of a SCBA is not necessary. These incidents may include areas where tear gas has or will be used or where a vegetation fire is burning. Gas masks shall not be used if there is a potential for an oxygen-deficient atmosphere.

Members shall ensure their gas mask filters are replaced whenever:

(a) They smell, taste or are irritated by a contaminant.

(b) They experience difficulty breathing due to filter loading.

(c) The cartridges or filters become wet.

(d) The expiration date on the cartridges or canisters has been reached.

705.7.3 RESPIRATOR FIT TESTING

No member shall be issued respiratory PPE until a proper fit testing has been completed by a designated member or contractor (8 CCR 5144).

After initial testing, fit testing for respiratory PPE shall be repeated (8 CCR 5144):

(a) At least once every 12 months.

(b) Whenever there are changes in the type of SCBA or facepiece used.

(c) Whenever there are significant physical changes in the user (e.g., obvious change in body weight, scarring of the face seal area, dental changes, cosmetic surgery or any other condition that may affect the fit of the facepiece seal).

All respirator fit testing shall be conducted in negative-pressure mode.

705.7.4 RESPIRATORY MEDICAL EVALUATION QUESTIONNAIRE

No member shall be issued respiratory protection that forms a complete seal around the face until (8 CCR 5144):

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(a) The member has completed a medical evaluation that includes a medical evaluation questionnaire.

(b) A physician or other licensed health care professional has reviewed the questionnaire.

(c) The member has completed any physical examination recommended by the reviewing physician or health care professional.

705.8 RECORDS

The Personnel and Training Administrator is responsible for maintaining records of all:

(a) PPE training.

(b) Initial fit testing for respiratory protection equipment.

(c) Annual fit testing.

(d) Respirator medical evaluation questionnaires and any subsequent physical examination results.

1. These records shall be maintained in a separate confidential medical file.

The records shall be maintained in accordance with the [department/office] records retention schedule and 8 CCR 5144.

705.9 TRAINING

Members should be trained in the respiratory and other hazards to which they may be potentially exposed during routine and emergency situations.

All members shall be trained in the proper use and maintenance of PPE issued to them, including when the use is appropriate; how to put on, remove and adjust PPE; how to care for the PPE; and the limitations (8 CCR 3380).

Members issued respiratory PPE shall attend annual training on the proper use of respiratory protection devices (8 CCR 5144).

705.9.1 REVISIONS

Adopted: November 21, 2017

Revised: December 1, 2017

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Military Equipment

706.1 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).

Assembly Bill 481 (AB 481), signed into law on September 30, 2021, requires law enforcement agencies to create a policy establishing guidelines and requirements for the funding, acquisition, and use of "military equipment" (Government Code § 7070, 7071, and 7072), including requirements to host informational meetings with the public, generate annual "military equipment" use reports, and seek annual approval from their respective governing bodies. The purpose of this policy is to make sure that safeguards exist, including transparency, governing body oversight, and accountability measures, to ensure the funding, acquisition, and use of "military equipment" is consistent with the provisions set forth by the governing body and as outlined in AB 481. This policy will also provide the public with a transparent view of the "military equipment" utilized by the Hayward Police Department.

706.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body - The City of Hayward's Mayor and City Council.
Exigent Circumstances - A law enforcement agency's good faith belief that an emergency involving the danger of, or imminent threat of death or serious physical injury to any person is occurring, has occurred, or is about to occur.
Military equipment - Includes but is not limited to the following:

• Category 1 - Unmanned, remotely piloted, powered aerial or ground vehicles.

• Category 2 - Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.

• Category 3 - 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.

• Category 4 - Tracked armored vehicles that provide ballistic protection to their occupants.

• Category 5 - Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.

• Category 6 - Weaponized aircraft, vessels, or vehicles of any kind.

• Category 7 - Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.

• Category 8 and 9 - Firearms and ammunition of.50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.

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• Category 10 - Specialized firearms and ammunition of less than.50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code §30515, with the exception of standard-issue handguns.

• Category 11 - Any firearm or firearm accessory that is designed to launch explosive projectiles.

• Category 12 - Noise-flash diversionary devices, explosive breaching tools, "tear gas", and "pepper balls", excluding standard, service-issued handheld pepper spray.

• Category 13 - TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).

• Category 14 - Kinetic energy weapons and munitions.

• Category 15 - Any other equipment as determined by a governing body or a state agency to require additional oversight.

706.2 POLICY

It is the policy of the Hayward Police Department that members of the department comply with the provisions of Government Code§ 7071 with respect to qualifying "military equipment". "Military equipment" shall be used by members of the Department who have completed applicable training, including training required by the Commission on Peace Officer Standards and Training {POST}. See the Military Equipment Inventory List (see below), attached hereto as **Exhibit A** for associated "military equipment" training requirements.

"Military equipment", which has been approved for use by the governing body, shall be used in accordance with all other applicable department policies and laws. These policies and laws include, but are not limited to:

- Hayward Police Department Policy 300 (Use of Force)
- Hayward Police Department Policy 302 (Control Devices and Techniques)
- California Assembly Bill No. 48
- California Penal Code Section 13652 (Use of Kinetic Energy Projectiles and Chemical Agents)

The Hayward Police Department acknowledges the historical use of certain police equipment to intimidate and oppress certain communities and groups more than others, including those that are defined by a common race, ethnicity, religion, national origin, income level, sexual orientation, or political perspective. As such, this policy expressly prohibits the use of "military equipment" on individuals or groups solely based 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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706.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police shall designate a member of the Hayward Police Department to act as the Military Equipment Coordinator. The responsibilities of the Military Equipment Coordinator include but are not limited to:

(a)Acting as liaison to the governing body for matters related to the requirements of this policy.
{b) Identifying Hayward Police Department equipment that qualifies as "military equipment" in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
(c) Conducting an inventory of all "military equipment" at least annually. The inventory list shall include the following:

1. The manufacturer's description of the equipment.
2. The capabilities of the equipment.
3. The purposes and authorized uses for which the Hayward Police Department proposes to use the equipment.
4. The expected lifespan of the equipment.
5. The fiscal impact of the equipment, both initially and for ongoing maintenance.
6. The quantity of the equipment, whether maintained or sought.

(d) Collaborating with any allied agency that may use "military equipment" within the jurisdiction of Hayward 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 Hayward Police Department'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 Hayward Police Department's 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 Hayward Police Department will respond in a timely manner.

706.4 MILITARY EQUIPMENT INVENTORY

The Hayward Police Department shall prepare a Military Equipment Inventory List, which shall include the following information:

(a) A description of each type of "military equipment", the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the "military equipment".

(b) The purpose and authorized use for which the Hayward Police Department proposes to use each type of "military equipment".

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(c) The fiscal impact of each type of "military equipment", including initial costs of obtaining the equipment and estimated annual cost of maintaining the equipment.

(d) The legal and procedural rules that govern each authorized use.

(e) The training, including any course required by POST, that must be completed before any Department member is allowed to use each specific type of "military equipment" to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the Military Equipment Use Policy.

The Military Equipment Inventory List shall be updated as necessary due to directives from the governing body or a change in the inventory. The Military Equipment Inventory List and associated amendment(s) shall be submitted to the governing body and the public via the Hayward Police Department's website at least 30 days prior to any public hearing concerning this policy.

The current Military Equipment Inventory List is attached in the EXHIBIT A - MILITARY EQUIPMENT INVENTORY LIST subsection below

706.4.1 MILITARY EQUIPMENT EXCLUSIONS

The Hayward Police Department acknowledges the list of "military equipment", as outlined in AB 481, is extensive and includes items that members of the department shall not seek to acquire, borrow, or use. These "military equipment" items include those that fall within the following categories:

Category 3 - 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.

Category 4 - Tracked armored vehicles that provide ballistic protection to their occupants.

Category 6 - Weaponized aircraft, vessels, or vehicles of any kind.

Category 8 and 9 - Firearms and ammunition of.50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.

Category 11 - Any firearm or firearm accessory that is designed to launch explosive projectiles.

Category 13 - TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).

706.4.2 PROCUREMENT AND USE IN EXIGENT CIRCUMSTANCES

Notwithstanding the provisions of this policy, the Hayward Police Department may acquire, borrow, and/or use "military equipment" in exigent circumstances without following the requirements of this policy.

If the Hayward Police Department acquires, borrows, and/or uses "military equipment" in exigent circumstances, in accordance with this section, the following action must be taken:

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(a) The Chief of Police or the authorized designee must provide written notice to the governing body within 30 days following the commencement of the exigent circumstances, unless such information is confidential or privileged under local, state, or federal law.

(b) If it is anticipated the use will continue beyond the exigent circumstances, the Chief of Police or the authorized designee must submit a proposed amendment to the Military Equipment Use Policy to the governing body within 90 days and the Hayward Police Department may only continue use if approved, as applicable, by the governing body.

(c) The Chief of Police or the authorized designee must include the acquisition, borrowing, and/or use of the "military equipment" in the next annual Military Equipment Report.

706.5 APPROVAL

The Hayward Police Department shall obtain approval from the governing body annually prior to engaging in any of the following activities:

(a} Requesting "military equipment" made available pursuant to section 2576a of Title 1O of the United States Code.

{b} Seeking funds for military equipment including, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

{c) Acquiring new "military equipment", either permanently or temporarily, including by borrowing or leasing.

{d} Absent exigent circumstances, collaborating with another law enforcement agency in the deployment or other use of "military equipment" within the territorial jurisdiction of the governing body.

{e) Absent exigent circumstances, using any new or existing "military equipment" for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to policy.

(f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of "military equipment".

The Hayward Police Department shall submit a proposed Military Equipment Use Policy (this policy}, or associated amendments, to the governing body and the public via the Hayward Police Department's website at least 30 days prior to any public hearing concerning the "military equipment" at issue.

706.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

706.7 ANNUAL REPORT

Upon approval of this Military Equipment Use Policy, the Chief of Police or the authorized designee shall submit an annual Military Equipment Report to the governing body for each type of "military

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equipment" approved and in the Hayward Police Department inventory. This report must be submitted to the governing body within one year of approval, and annually thereafter for as long as the "military equipment" is available for use. Each annual report shall be made publicly available on the Hayward Police Department's website for as long as the "military equipment" is available for use.

The annual Military Equipment Report must address each type of "military equipment" approved for department use and shall, at a minimum, include the following information for the preceding year for each type of "military equipment":

(a) A summary of how the "military equipment" was used and the purpose of its use.

(b) A summary of any complaints or concerns received regarding the "military equipment".

(c) The results of any internal audits, any information about violations of the Military Equipment Use Policy, and any actions taken in response.

(d) The total annual cost for each type of "military equipment", including acquisition costs, personnel costs, training costs, maintenance costs, and other ongoing costs, and from what funding source these costs came from.

(e) The quantity possessed for each type of "military equipment".

(f) If the Hayward Police Department intends to acquire additional "military equipment" in the next year, including the nature of the items and quantity sought

706.8 POLICY COMPLIANCE AND SUBMITTING COMPLAINTS

The Chief of Police or the authorized designee will ensure that all Hayward Police Department employees comply with this policy. Suspected violations of the provisions set forth in this policy, or in other laws or policies governing the use of "military equipment", shall be referred to the Internal Affairs Unit and handled in accordance with Hayward Police Department Policy 324 (Standards of Conduct). Additionally, violations of the provisions set forth in this policy, or in other laws or policies governing the use of "military equipment", will be reported to the governing body via the annual Military Equipment Report.

Any member of the community can submit a complaint regarding the use of "military equipment" to any City Council member, the City Manager's Office, the City Attorney's Office, the Human Resources Office, via Access Hayward, or to any Hayward Police Department employee. Complaints can be submitted in any form (e.g., in person, telephone, email, etc.). Once a complaint is received, it will be referred to the Internal Affairs Unit and handled in accordance with Hayward Police Department Policy 324 (Standards of Conduct) and HPD Policy 1011 (Personnel Complaints).

706.9 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

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which the [Department/Office] should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

706.9.1 EXHIBIT A - MILITARY EQUIPMENT INVENTORY LIST

The following is a list of "military equipment", as defined in AB 481, which HPD currently has in its inventory. The equipment items listed below are authorized for use to resolve high-risk and/or critical incidents, including but not limited to the following:

- High-risk offender apprehension
- Barricaded subjects
- Hostage rescue
- Dignitary protection
- Riot control
- Active shooter response
- In-progress violent crimes
- Response to armed subjects or subjects wearing body armor
- Other situations which could result in great bodily injury or death to officers or community members

The use of the equipment items below must be proportionate to each incident officers respond to and the HPD's Risk Assessment Matrix is designed to assist in such decision making.

CURRENT EQUIPMENT:

1. Robot (Category 1)

Description, quantity, capability, and purchase cost:

Avatar Tactical Robot - Unit Cost: $30,000 (purchased under a Bay Area UASI grant). Quantity: 2. This equipment is a battery powered, remote operated device equipped with cameras and communication capabilities. This equipment is for (potential) use during high-risk incidents and use is authorized for all members of the department who have been trained in its use. Incidents that may qualify for its use include, but are not limited to, high-risk warrant services, barricaded subjects, and hostage negotiation/rescue operations. Before entering a structure, particularly in a tactically compromised and dangerous situation, knowledge of a subject's location is very important, and the robot can provide that without placing anyone at risk. Cameras can also help determine if a subject is armed and if there are other subjects inside that need assistance. The two-way speakers can be used to communicate, de-escalate, and determine resistance level.

Purpose:

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To be used to remotely gain visual/audio information during high-risk incidents, deliver CNT phone, open doors, and clear buildings.

Authorized Use:

Only members of the department who have been trained in the use of the robot shall be permitted to operate the robot. Use is authorized by the on-scene Incident or Tactical Commander and shall comply with all associated HPD and City policies regarding privacy.

Expected lifespan:

10 years

Fiscal Impact:

No known annual maintenance cost.

Training Requirements (initial and ongoing):

Initial training on how to operate the robot is the only requirement. There is no ongoing training or POST certifications required.

2. Unmanned AerialSystems (Category 1)

Description, quantity, capability, and purchase cost:

OJI Mavick Advanced unmanned aerial system (UAS} - Unit Cost: $6,500. Quantity: 2. The OJI Mavick Advanced is a commercial grade UAS. This UAS is a battery powered, remote operated device. The controller allows operators to fly UAS and view live feed from UAS-mounted cameras in accordance with HPD and City policy. The cameras have both RGB (normal} and FUR (heat sensing) capabilities consistent with those mounted on all law enforcement helicopters. Flight time is approximately 25-30 minutes per battery, depending on weather and flight conditions. The UAS has also proven to be useful to public safety agencies in emergency response, search and rescue, and other situations where aerial views enhance the safety and efficiency of law enforcement and fire personnel.

The OJI Mini 2 unmanned aerial system (UAS)- Unit Cost: $1,411.39. Quantity: 2. This UAS is a battery powered, remote operated device. The controller allows operators to fly UAS and view live feed from UAS-mounted cameras in accordance with HPO and City policy. This is a smaller UAS specifically designed for clearing structures or other areas that are difficult or unsafe to reach for first responders. Flight time is approximately 25-30 minutes per battery, depending on weather and flight conditions. The UAS has also proven to be useful to public safety agencies in emergency response, search and rescue, and other situations where aerial views enhance the safety and efficiency of law enforcement and fire personnel.

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Military Equipment

Purpose:

To be deployed when its use would assist members of the department with the situations outlined in HPO Policy subsection 611.6 (Approved Uses).

Authorized Use:

Only assigned operators who have completed the required training, including obtaining their FAA Part 107 certification, shall be permitted to operate UAS during approved missions.

Expected lifespan:

3-4 years

Fiscal Impact:
No known annual maintenance cost. Repairing damage and/or updating software could be necessary to keep the UAS operational. This cost can vary from $20-$2,000 and would be based on need.

Training Requirements /initial and ongoing):
UAS initial training (required):

- Passing the Part 107 test required by the FAA to operate a UAS
- HPD training on the operations manual, proper reporting forms, HPD policy, and HPD procedure
- 8-hour flight training on how to operate the UAS properly and efficiently
- UAS written test on the operations manual and HPD policy

UAS ongoing training (required):

- Each UAS deployment is considered ongoing training
- The UAS team meets quarterly
- Joint training with allied agency UAS teams
- Annual UAS written test on the operations manual and HPD policy

3. Armored Personnel Carrier (Category2)

Description, quantity, capability, and purchase cost:
Armored Solutions Armored Rescue Vehicle - Unit Cost: $82,660.00. Quantity: 1. The ARV is a Ford FSS0 truck designed to provide ballistic protection during high-risk incidents. It is designed to withstand multiple bullet impacts and low- level explosions. The ARV is equipped with emergency lights, siren, and a public address system for communications. It is not weaponized, nor does it contain any breaching apparatuses. Common uses of the ARV include community member or officer rescues, evacuations, and it provides ballistic protection for officers during in-progress, high-risk incidents. The

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ARV is also a regional mutual-aid asset, which has been requested by and deployed to assist neighboring agencies in Alameda County.

Purpose:
To be used during responses to high-risk incidents to enhance the safety of community members and officers, improve scene containment and stabilization, and to contribute to the safe resolution of evolving critical events.

Authorized Use:
The use of the ARV can be requested by any Officer based on the specific circumstances of in-progress, high-risk incidents or high-risk planned operations. The ARV shall only be used by Officers trained in its deployment and in a manner consistent with departmental training. Use shall be authorized by the Special Operations lieutenant or the on-duty Watch Commander.

Expected Lifespan:
20 years

Fiscal Impact:
Annual maintenance cost of approximately $1,050.

Training Requirements (initial and ongoing):
There are no POST certifications required for use of the Armored Personnel Carrier.

- HPD's Armored Personnel Carrier initial training requirements:
  - How to operate the different functions, placement considerations, and appropriate usage of the vehicle
- HP0's Armored Personnel Carrier ongoing training requirements:
  - Refresher training for all officers on the different functions, placement considerations, and appropriate usage of the vehicle

4. Command and Control Vehicle (Category 5)

Description, quantity, capability, and purchase cost:
Freightliner MT-55 L0V Model C34MCC-10- Unit Cost: $387,672.00. Quantity: 1. The Command Vehicle is a bus style vehicle with front and rear doors. It is painted white with HPD markings affixed to the front, sides, and rear of the vehicle. There are 2 separate internal office-style working spaces, most commonly used by Dispatch or Crisis Negotiations personnel. It can be used as a field-based, mobile command center for major incidents and as a backup Communications Center for the City. The Command Vehicle is also capable of transporting equipment and personnel.

Purpose:
To be used as a field-based mobile command center, communications center, and crisis negotiations center during major incidents. It also serves as a backup Communications

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Center in the event the City's primary Communications Center experiences technical issues.

Authorized Use:
The Command Vehicle can be requested by any member of the department for use in the field during major incidents. Use of the Command Vehicle shall be approved by the Special Operations Lieutenant and can only be operated by members of the department specifically trained in its use.

Expected Lifespan:
20 years

Fiscal Impact:
Annual maintenance cost of approximately $840.

Training Requirements (initial and ongoing}:
Initial training is required for employees assigned as drivers of the Command Vehicle. The training consists of an overall familiarization, how to operate the vehicle's equipment, and how to safely drive the vehicle. There is no ongoing training or POST certifications required.

5. Breaching Apparatus: Shotgun Slugs (Category 7)Description, quantity, capability, and purchase cost:
Royal Arms Tesar-2. Unit Cost: $4 per round. Quantity: 50. Shotgun breaching rounds are specialty shotgun shells utilized for door breaching. The Royal Arms Tesar-2 rounds contain compressed copper powder and are fired through a specialized breaching shotgun barrel. The copper powder is designed to strike and destroy the locking mechanism inside of the door, allowing entry into the room or structure. The powder is designed to dissipate after striking the locking mechanism in order to minimize entry into the target space for the safety of occupants and operators. These rounds are designed to breach heavy locks, dead-bolts, and hinges mounted inside of solid oak or steel doors. Royal Arms Tesar-2 rounds are good until they are expended if stored properly.

Purpose:
To gain rapid entry into a structure during critical incidents.

Authorized Use:
Only members of the department assigned to the SRU who have been trained in the use of a breaching shotgun shall deploy a breaching shotgun in the field. Shotgun breaching may only occur after authorization by the Incident Commander or Tactical Commander in the field and during training exercises.

Expected Lifespan:
Until expended

Fiscal Impact:

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Replaced as needed (estimated $0 to $200 annually).

Training Requirements (initial and ongoing):

Initial and ongoing training in the safe and appropriate use of the breaching shotgun is provided by POST certified instructors. The initial and ongoing training requirements are the same and consist of an overview of the breaching shotgun, breaching slug capabilities, safe and appropriate operation of the breaching shotgun, and deployment considerations (including when not to use). Members of the department assigned to the SRU conduct annual training on breaching, including the use of the breaching shotgun, and must demonstrate proficiency through the practical application of this equipment.

6. Specialized Firearms and Ammunition (Category 10) Description, quantity, capability, and purchase cost:
Carbine Rifle - Unit Cost: $1,039.75. Quantity: 64. The carbine rifle is a firearm capable of stopping an armed subject at various distances. It is a light weight, air-cooled, gas operated, magazine fed, shoulder fired weapon capable of operating in semi-automatic and selective fire modes. These rifles fire a.223 or 5.56 caliber cartridge, which is capable of penetrating soft body armor worn by armed subjects.

H&K MPS and H&K MPS POW entry rifle - Unit Cost: $1,200. Quantity: 4. The H&K MPS and MPS POW are firearms capable of stopping an armed subject at various distances. They are a light weight, magazine fed, shoulder fired weapon capable of operating in semi-automatic and selective fire modes. These rifles fire a 9mm caliber cartridge.

PWS MK216-LE.308 precision rifle -Unit Cost: $1,994.99. Quantity: 5. The PWS MK216-LE is a precision rifle capable of stopping an armed subject at various distances. It is a magazine fed, shoulder fired weapon capable of operating in semi-automatic mode. This rifle fires a.308 caliber cartridge, which is capable of penetrating soft body armor worn by armed subjects, and is utilized by the department's Special Response Unit during high-risk situations.

Remington 700.308 long rifle - Unit Cost: $1,300. Quantity: 5. The Remington 700 is a long-range firearm capable of stopping an armed subject at various distances. It is a bolt action, shoulder fired weapon capable of firing single precision shots out to significant distances. This rifle fires a.308 caliber cartridge, which is capable of penetrating soft body armor worn by armed subjects, and is utilized by the department's Special Response Unit during high- risk situations.

(S} Winchester.223 Ranger power-point 64 grain cartridge -Unit Cost: $9.76 (per 20 rounds). Quantity: 25,000. The.223 cartridge is the primary duty ammunition for the department's carbine rifles.

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Military Equipment

Winchester 5.56 full metal jacket 55 grain cartridge - Unit Cost: $7.16 (per 20 rounds). Quantity: 67,000. The 5.56 cartridge is the primary training ammunition for the department's carbine rifles.

Winchester.223 Ranger frangible 55 grain cartridge - Unit Cost: $12 (per 20 rounds). Quantity: 1,000. The.223 frangible cartridge is training ammunition used by the Special Response Training during live-fire exercises.

Winchester.308 match king 168 grain cartridge - Unit Cost: $50 (per 20 rounds). Quantity: 2,000. The.308 cartridge is both duty and training ammunition for the PWS MK216-LE and Remington 700 rifles, which are specifically used by the department's Special Response Unit.

Purpose:

To be used during high-risk situations, including those where precision and distance are factors, as they are more accurate and effective than standard issued department firearms.

Authorized Use:

Use of the firearms listed above are governed under HPD Policy 300 (Use of Force), which defines deadly force as that which is likely to cause serious bodily injury or death. Only department members who are POST certified and who show proficiency during department training are authorized to carry a carbine rifle. The H&K MPS, H&K MPS POW, PWS MK216-LE, and Remington 700 are

- firearms that are only authorized for use by specially trained members of the department's Special Response Unit.

Expected Lifespan:

{1) Carbine rifles -10 years or sooner depending on usage in training

(2).308 rifles -10-15 years or sooner depending on usage in training

{3) Ammunition - No expiration if stored properly

Fiscal Impact:

All rifles are inspected and serviced annually by certified department armorers. They are replaced according to date of purchase and as needed depending on usage.

Carbine rifles -Annual replacement and service costs between $10,000 and

$20,000

.308 rifles - Annual replacement and service costs between $0 and $10,000

Ammunition -Annual replacement costs between $50,000 and $100,000

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Training Requirements (Initial and ongoing):

Carbine rifle initial required training (all officers):

- POST certified basic academy rifle training and qualification {provided by POST certified instructors)
- POST certified 2-day rifle course and qualification (provided by POST certified instructors)
- HPD training on policy, procedure, and safety considerations
- Safety test

Carbine rifle ongoing required training {all officers):

- Annual POST certified rifle training and qualification (provided by POST certified instructors)
- Annual HPD review of policy, procedure, and safety considerations
- Bi-annual firearms training at an approved range (provided by POST certified instructors)

H&K MPS and POW initial training (SRU members only):

- POST certified SRU firearms/rifle training and qualification (provided by POST certified instructors)
- Training on policy, procedure, and safety considerations
- Safety test

H&K MPS and POW ongoing training (SRU members only):

- Annual POST certified firearms training and qualification (provided by POST certified instructors)
- Five additional SRU firearms trainings throughout the calendar year
- Training on policy, procedure, and safety considerations
- Safety test

PWS MK216-LE.308 precision rifle and Remington 700.308 long rifle initial training (SRU members only):

- 48-hour POST certified basic sniper school (provided by POST certified instructors)
- SRU precision rifle training and qualification (provided by POST certified instructors)
- Review of policy, procedure, and safety considerations
- Safety test

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PWS MK216-LE.308 precision rifle and Remington 700.308 long rifle ongoing training (SRU members only):

- HPO annual precision rifle training and qualification (provided by POST certified instructors)
- Bi-monthly precision rifle training (provided by POST certified instructors)
- Review of policy, procedure, and safety considerations
- Safety test

NOTE: All ammunition listed in this category is utilized at the firearms trainings referenced above. The amount of ammunition varies depending on the training course and required qualifications.

7. Noise Flash Diversionary Device (Category 12)

Description, quantity, capability, and purchase cost:

NFOD 7290M - Unit Cost: $82.27. Quantity: 24. A noise flash diversionary device {NFDO), often referred to as a "flashbang", is a device designed to create a bright flash of light and a loud sound to temporarily divert the attention of a subject in the area where it is deployed. NFDDs are used to distract and temporarily disorient dangerous subjects by overwhelming their senses of sight and hearing. This allows members of the department to take control of high-risk situations and/or accomplish legitimate law enforcement objectives during critical incidents. NFDDs are not weapons as they do not fragment as a military grenade would and oversight of the department's purchase/use of NFDDs is performed by the Federal Department of Alcohol, Tobacco, Firearms, & Explosives (commonly referred to as the ATF).

Purpose:

To be used during high-risk situations to obtain a tactical advantage or to establish control by creating a diversion.

Authorized Use:

NFDDs are under the oversight of the ATF and may only be used by specially trained members of the department's Special Response Unit during high-risk situations or during training.

Expected lifespan:

5 years (manufacturer shelf life)

Fiscal Impact:

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Varies depending on usage and training ($0 to $1,000}

Training Requirements (initial and ongoing):

NFDD initial training (SRU members only):

- POST certified NFDD instructor training (provides POST certification for HPD instructors)
- POST certified basic SWAT school (provided by POST certified instructors)
- Review of policy, procedure, and safety considerations NFDD ongoing training (SRU members only):
- Annual NFDD training for members of the SRU (provided by POST certified instructors)
- Review of policy, procedure, and safety considerations

NOTE: NFDD programs are under federal oversight by the Bureau of Alcohol, Tobacco, Firearms, & Explosives.

8. Chemical Agents "Teargas" (Category12)

Description, quantity, capability, and purchase cost:
2-chlorobenzylidene malononitrile (CS}- Unit Cost: Depends on the munition (see fiscal impact). CS is used by law enforcement agencies across the country. CS, commonly referred to as "tear gas", is an irritating agent and a lachrymator (irritates the eyes, causing tears and mucous flow). It can be delivered in a variety of ways and can be used by the department as a less- lethal force option during high-risk incidents, including riots and barricaded subjects. The types of CS munitions in the department's inventory are as follows (the contents are the same, but the delivery systems for each munition are different):

- 49 Model 1292 40 mm CS
- 6 Model 1092 CS Handballs
- 6 Model 1032 CS Flameless Tri-Chamber
- 3 Model 1072 CS Speed Heat

Oleoresin Capsicum (QC) - Unit Cost: Depends on the munition (see fiscal impact). QC is used by law enforcement agencies across the country. OC, commonly referred to as "pepper spray", is an irritating agent that causes involuntary closure of the eyes, mucous flow, and temporary respiratory inflammation. Its primary ingredient is capsaicin, which is found in chili peppers, and QC is available to the general public for purchase. It can be delivered in a variety of ways and can be used by the department as a less-lethal force option during high-risk incidents, including riots and barricaded subjects. The types of QC

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munitions in the department's inventory are as follows (the contents are the same, but the delivery systems for each munition is different):

- 6 Model 2040 QC Expulsion
- 6 Model 3090 QC Shotgun ferret rounds

Purpose:

To be used as a less-lethal force option during high-risk situations, including but not limited to those involving dangerous or combative subjects, riots, or when a tactical advantage needs to be obtained.

Authorized Use:

Only members of the department who are POST certified to use chemical agents are authorized to do so. The use of the above listed munitions is only authorized for specially trained members of the department's Special Response Unit.

Additionally, these munitions may only be used for crowd control purposes within the provisions outlined in AB 48 and Penal Code Section 13652.

Expected Lifespan:

5 years (manufacturer shelf life)

Fiscal Impact:

Varies depending on usage and training ($0 to $5,000)

Training Requirements (initial and ongoing):

Chemical agents "tear gas" initial training (SRU members only):

- POST certified basic academy chemical agent training (provided by POST certified instructors - includes direct exposure for all students)
- POST certified basic SWAT school (provided by POST certified instructors)
- POST certified chemical agent instructor school (provided by POST certified instructors - for SRU instructors only)
- HPD SRU training on policy, procedure, and deployment considerations (including when not to use - provided by POST certified instructors)- includes direct exposure for all SRU members
- HPD SRU training on safety protocols

Chemical agents "tear gas" ongoing training (SRU members only):

- Annual SRU training on policy, procedure, and deployment considerations (including when not to use - provided by POST certified instructors) - includes direct exposure for all SRU members

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- Annual review of safety protocols

9. Pepper Powder Less Lethal Launcher (Category 14)**Description, quantity, capability, and purchase cost:**
FN 303 Less Lethal Launcher - Unit Cost: $850. Quantity: 2. The FN 303 Less Lethal Launcher is a system that uses compressed air to deliver OC powder, paint, and specialty impact munitions. It is similar to a paintball system as it fires frangible plastic ammunition, which contains liquid OC. This system offers members of the department a less-lethal force option during high-risk situations. This system allows for liquid OC and kinetic energy impacts to be delivered to dangerous or combative subjects at various distances.

Purpose:
To be used as a less-lethal force option during high-risk situations, including but not limited to those involving dangerous or combative subjects, riots, or when a tactical advantage needs to be obtained.

Authorized Use:
The FN 303 Less Lethal Launcher may only be used by specially trained members of the department's Special Response Unit. Additionally, the FN 303 Less Lethal Launcher may only be used for crowd control purposes within the provisions outlined in AB 48 and Penal Code Section 13652.

Expected Lifespan:
10 years

Fiscal Impact:
Varies depending on ammunition usage and training ($0-$2,000)

Training Requirements (initial and ongoing}:
Pepper Powder Less Lethal Launcher initial training (SRU members only):

- POST certified Specialty Impact Munition instructor school (provided by POST certified instructors - for SRU instructors only)
- HPD SRU training on policy, procedure, and deployment considerations (including when not to use - provided by POST certified instructors; includes demonstrated proficiency in use
- HPD SRU training on safety protocols

Pepper Powder Less Lethal Launcher ongoing training (SRU members only):

- Annual SRU training on policy, procedure, and deployment considerations (including when not to use - provided by POST certified instructors)- includes demonstrated proficiency in use
- HPD SRU annual training on safety protocols

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Military Equipment

10. Specialty Impact Munition Systems and Ammunition (Category 14)**Description, quantity, capability, and purchase cost:**
Defense Technology LMT Tactical Single Shot 40 mm Launcher - Unit Cost:

$1,100. Quantity: 10. CTS 40 mm Launcher- Unit Cost: $1,250. Quantity: 4. The 40 mm Less Lethal Launcher is a chemical agent and/or specialty impact munition delivery system that can be used by members of the department during high-risk situations. It is capable of delivering CS into a structure or direct fire specialty impact munitions (sponge rounds) to a dangerous or combative subject at various distances.

40 mm Sponge Rounds - Unit Cost: $20. Quantity: 100. The 40 mm sponge round is a direct fire specialty impact munition that is similar in size and consistency to a racquet ball. It can be fired from a 40 mm and be used to neutralize a dangerous or combative subject during high-risk situations.

Purpose:
To be used as a less-lethal force option during high-risk situations, including but not limited to those involving dangerous or combative subjects, riots, or to deliver CS into a structure.

Authorized Use:
The 40 mm Less Lethal Launcher may only be used by members of the department specially trained in its use and who have shown proficiency during departmental training. Additionally, the 40 mm Less Lethal Launcher may only be used for crowd control purposes within the provisions outlined in AB 48 and Penal Code Section 13652.

Expected Lifespan:
All 40 mm launchers are inspected and serviced annually by certified department armorers. They are replaced according to date of purchase and as needed depending on usage.

40 mm launchers-10 years

40 mm sponge rounds - 5 years (manufacturer shelf life)

Fiscal Impacts:
Replaced as needed (estimated $0 to $2,000 annually)

Training Requirements (initial and ongoing):

40mm Less Lethal Launcher initial training (all officers):

- POST certified Specialty Impact Munition instructor school (provided by POST certified instructors - for department instructors only)
- POST certified training for all new officers

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- HPD department training on policy, procedure, and deployment considerations (including when not to use - provided by POST certified instructors)- includes demonstrated proficiency in use
- HPD training on safety protocols

40mm Less Lethal Launcher ongoing training (all officers):

- Annual HPD department training on policy, procedure, and deployment considerations (including when not to use - provided by POST certified instructors) - includes demonstrated proficiency in use
- HPD annual training on safety protocols

706.9.2 REVISIONS
Adopted: July 5, 2022

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Chapter 8 - Support Services

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Crime Analysis

800.1 PURPOSE AND SCOPE

Crime analysis should provide currently useful information to aid operational personnel in meeting their tactical crime control and prevention objectives by identifying and analyzing methods of operation of individual criminals, providing crime pattern recognition, and providing analysis of data from field interrogations and arrests. The Crime Analysis Unit serves as the analytical resource to prevent and deter crime and assist in the apprehension of criminals for the safety of our community. Crime analysis is a key component to the agency's long range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

800.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 15.3.1

800.2 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to:

- Crime reports
- Field Interview cards
- Parole and Probation records
- Computer Aided Dispatch data
- Information from surrounding jurisdictions
- Statewide Integrated Traffic Reporting System (SWITRS)

800.3 CRIME ANALYSIS FACTORS

The Crime Analysis Unit analyzes various components of reported crime. Analysis shall consist of the systematic retrieval and examination of crime data. Analysis shall consist of, but not limited to the following components of data:

- Volume
- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

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Crime Analysis

The Crime Analysis Unit will utilize the data listed in this policy to identify potential crime trends, series, and patterns, by temporal and geographic distribution. The Crime Analysis Unit will then notify all personnel, including supervisors with a "crime alert bulletin" when a potential problem is developing, or the problem is occurring. Notification will occur by computer email or a printed product.

800.4 CRIME ANALYSIS DISSEMINATION

For a crime analysis system to function effectively, information should be disseminated to the appropriate units or persons on a timely basis. The Crime Analysis Unit will distribute via email, a printed product, or briefing, routine crime analysis information, patterns, and trends to appropriate units. This includes the Office of the Chief, Field and Investigation Divisions and the Support Services Division. Reports include, but are not limited to a weekly crime report that includes:

- Vehicle burglaries
- Stolen vehicles
- Commercial burglaries
- Residential burglaries/theft
- Traffic collision report with frequency by location and violation, causal factors, top three collision locations

In order to provide the public with reasonable access to basic statistical crime data, the following procedure is established: The Crime Analysis Unit shall provide crime statistics to the public when requested. Crime statistics will include, but are not limited to:

- All burglaries, stolen vehicles, vandalism and theft
- Maps showing boundaries of beats and reporting districts
- Specific addresses of victims shall not be given out

Crime patterns or events occurring in a specific geographic area may be relayed to residents in the affected area. The analysis of the unit includes monthly crime index information in order to report changes in temporal crime. This information shall include, but is not limited to:

- Criminal activity by Part 1 crime (Uniform Crime Reports)
- Monthly comparison of activity compared with the previous year for the same month and twelve month comparison

800.5 REVISIONS

Enacted: May 12, 2009

Revised: May 23, 2016

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Communication Operations

801.1 PURPOSE AND SCOPE

The basic function of the communications system is to satisfy the immediate information needs of the law enforcement agency in the course of its normal daily activities and during emergencies. The latter situation places the greatest demands upon the communications system and tests the capability of the system to fulfill its functions. Measures and standards of performance are necessary to assess the effectiveness with which any department, large or small, uses available information technology in fulfillment of its missions.

801.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.2.6, 81.1.2, 81.2.1, 81.2.2, 81.2.3, 81.2.4, 81.2.8, 81.2.10, 81.2.12, 81.2.15, 82.2.3

801.1.2 FEDERAL COMMUNICATIONS COMMISSION COMPLIANCE

Hayward Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and guidelines.

801.1.3 LOCATION OF FCC LICENSE AND RULES AND REGULATIONS

A copy of the Federal Communications Commission (FCC) License and Title § 47 Rules and Regulations is maintained by the Communications Bureau Administrator.

801.1.4 COMMUNICATIONS PROCEDURES

The Communications Center employs many complex systems for a variety of services to the public and public safety members. The Communications Bureau Administrator is responsible for developing and maintaining procedures to efficiently provide communications services. Department members shall comply with the established procedures. Reference the Radio Communications procedure.

801.2 COMMUNICATION OPERATIONS

This Department provides 24-hour telephone service to the public for information or assistance that may be needed in emergencies. The ability of citizens to telephone quickly and easily for emergency service is critical. This Department provides access to the 911 system for a single emergency telephone number. This Department has two-way radio capability providing continuous communication between the Communications Center and officers.

801.2.1 COMMUNICATIONS LOG

It shall be the responsibility of the Communications Center to record all relevant information on calls for criminal and non-criminal service or self-initiated activity. Employees shall attempt to elicit as much information as possible to enhance the safety of the officer and assist in anticipating conditions to be encountered at the scene. Desirable information would include, at a minimum, the following:

- Incident number

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- 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

801.2.2 TELECOMMUNICATIONS FOR THE DEAF

Telecommunications for deaf (TDD/TTY) are available on all communications center telephone lines, both incoming and outgoing. Department members should assure that these systems are functioning properly at all times and report any malfunctions.

801.2.3 AUDIO RECORDING OF RADIO AND TELEPHONE

The Communications Bureau Administrator will maintain a system for recording and immediate playback of all telephone and radio transmissions within Communications Center. The recordings shall be maintained in accordance to the City of Hayward Records Retention and Destruction Policy, unless the communication is identified as being needed as evidence. Those recordings identified will be copied and placed into evidence.

The Communications Bureau Administrator shall assure that security measures are in place and maintained for the digital recordings referred in this section.

Review of the recordings are available for immediate review by Department personnel for business purposes. Supervisors and managers may review audio recording for purposes of quality control, evaluation and training.

External requests for copies of audio recordings from the Communication Center shall be routed through the Communications Bureau Administrator or his/her designee.

Reference the Communications Audio Recording procedure for additional guidelines.

801.2.4 WIRELESS AND VOICE OVER INTERNET PROTOCOL (VOIP) 911 CALLS

The Hayward Police Department elects to accept wireless and Voice Over Internet Protocol (VoIP) 911 telephone calls. All reasonable efforts will be made to verify the existence of an emergency, the location of the emergency and, if possible, coordinate an appropriate response. Department embers will follow the established procedures for these telephone calls.

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801.2.5 EMERGENCY MEDICAL DISPATCH (EMD)
The Hayward Police Communications Center refers all Emergency Medical Dispatching (EMD) to the Alameda County Regional Emergency Communications Center (ACRECC). Public Safety Dispatchers are trained to transfer callers requesting such services to the Alameda County Sheriff's Department as appropriate.

801.3 RADIO COMMUNICATIONS
Operations are more efficient and officer safety is enhanced when dispatchers, supervisors, and fellow officers know the status of officers, their locations and the nature of cases.

801.3.1 OFFICER IDENTIFICATION
Hayward Police assigns radio identification numbers for patrol by the beat, the shift, and then a repeat of the beat by a corresponding number. For example, A11 is the patrol “Adam” beat officer assigned to dayshift and the corresponding number to the Adam beat is the number 1. Special assignments have different unit identifiers, depending upon their assignment. Officers assigned to special duties, such as Special Response Unit callouts or special events, will use their assigned badge number as their call sign. Sergeants and Lieutenants will use “S” or “L” in front of their entire badge number. During any radio transmission, employees must identify themselves with their radio identification number.

801.4 TRAINING AND CERTIFICATION
Dispatchers shall receive training consistent with minimum standards established by POST (Penal Code § 13510).

801.5 REVISIONS
Enacted: December 17, 2007

Revised: July 8, 2009

Revised: May 23, 2016

Revised: March 3, 2017

Revised: May 5, 2017

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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 ACCREDITATION STANDARDS

This section along with the Property/Evidence and Crime Scene Investigation Manuals pertain to the following CALEA Standards: 41.2.4, 83.2.1, 84.1.1, 84.1.5, 84.1.6

802.2 DEFINITIONS

Property - Includes all items of evidence, items taken for safekeeping and found property.

Evidence - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

Safekeeping - Includes the following types of property:

- Property obtained by the Department for safekeeping such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons))

Found property - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

802.3 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

802.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty unless otherwise approved by a supervisor. Employees booking property shall observe the following guidelines:

(a) Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.

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(b) Mark each item of evidence with the booking employee's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.

(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 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately using a separate property record. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall place them in the designated locker accompanied by two copies of the form for the Records Bureau and detectives. The remaining copy will be detached and submitted with the case report.

802.3.3 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Watch Commander. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the police facility. 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 Property CSO is responsible for transporting to the Fire Department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

802.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

(a) Bodily fluids such as blood or semen stains shall be air dried prior to booking.

(b) License plates found not to be stolen or connected with a known crime, should be released directly to the Property CSO, or placed in the designated container for return to the Department of Motor Vehicles. No formal property booking process is required.

(c) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property may be released directly to

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the Property CSO, or placed in the bicycle storage area until a Property CSO can log the property.

(d) All cash shall be counted in the presence of a supervisor and the envelope initialed by the booking officer and the supervisor. The Watch Commander shall be contacted for cash in excess of $1,000 for special handling procedures.

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.

802.3.5 RELINQUISHED FIREARMS

Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 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 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 Property CSO shall ensure the Records Administrator 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
Employees 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 in the designated narcotics locker, accompanied by two copies of the property record. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the officer's report.

Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size available in the report room. The booking officer shall initial the sealed envelope and the initials covered with cellophane tape. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property tag shall be attached to the outside of the container. The chain of evidence shall be recorded on the back of this tag.

802.5 RECORDING OF PROPERTY
The Property CSO 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. Thisnumber shall be recorded on the property tag and the property control card.

Any changes in the location of property held by the Hayward Police Department shall be noted in the property logbook.

802.6 PROPERTY CONTROL
Each time the Property CSO receives property or releases property to another person, he/she shall enter this information on the property control card. Officers desiring property for court shall contact the Property CSO 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 evidence package shall be completed to maintain the chain of evidence. No property or evidence is to be released without first receiving written authorization from a supervisor or detective.

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to the Property CSO. This request may be filled out any time after booking of the property or evidence.

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802.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting employee will check the evidence out of property, indicating the date and time on the property control card and the request for laboratory analysis.

The Property CSO releasing the evidence must complete the required information on the property control card and the evidence. The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the officer will record the delivery time on both copies, and indicate the locker in which the item was placed or the employee to whom it was delivered. The original copy of the lab form will remain with the evidence and the copy will be returned to the Records 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 Property CSO shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property control card, indicating date, time, and the person who returned the property.

802.6.4 AUTHORITY TO RELEASE PROPERTY

The Criminal Investigations Bureau shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

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 Property CSO 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 Property and Evidence Bureau. 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 Property and Evidence Bureau 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 Criminal Investigations Bureau will be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of this department, including paraphernalia as described in Health & Safety Code § 11364.

802.6.8 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm or ammunition, the Property CSO 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, or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 33855).

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802.6.9 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms and other deadly weapons confiscated 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, 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.

802.6.11 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, he/she is 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 Hayward Police Department determines him/her 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.

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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 Property CSO 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 §§ 29300; 18010; 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474, etc.)
- Unclaimed, stolen or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)

802.7.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall cause a notice to 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 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 Property and Evidence Bureau 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 Property and Evidence Bureau 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).

802.8 INSPECTIONS OF THE EVIDENCE ROOM

(a) On a monthly 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.

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(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.

802.9 REVISIONS

Enacted: December 17, 2007

Revised: April 1, 2009

Revised: July 8, 2009

Revised: May 23, 2016

Revised: January 26, 2018

Revised: June 25, 2020

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Revised: December 10, 2021

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Records Bureau

803.1 PURPOSE AND SCOPE

The Records Supervisor shall oversee the Department Records Bureau and ensure proper procedures are being followed within the Records Bureau. Policies and procedures that apply to all employees of this Department are contained within.

803.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA standards: 74.1.1, 74.1.2, 74.1.3, 82.1.1, 82.1.2, 82.1.4, 82.1.5, 82.2.3, 82.2.4

803.1.2 NUMERICAL FILING SYSTEM

Case reports are filed numerically within the Records Bureau by Records Bureau personnel.

Reports are numbered commencing with the four digits of the current year followed by a sequential number beginning with 00001 starting at midnight on the first day of January of each year. As an example, case number YYYY-00001 would be the first new case beginning January 1 of a new year.

803.1.3 CASE CONTROL AND AUDITING

The Records Bureau Administrator shall assure that generated case files are completed as appropriate and accounted for within the Records Bureau. Department supervisors will adhere to the report removal, submission and verification procedures, as outlined in the Records Release and Security Policy.

At the end of each month, a Computer-Aided Dispatch (CAD) printout of all generated case numbers are compared to the Records Bureau case files to ensure that all case numbers and reports are accounted for. Follow-up notices are sent to the officers/investigators via their supervisors for any outstanding reports. All outstanding reports will then be submitted within a reasonable period of time (usually 10 days) and processed by the Records Bureau in the usual manner.

803.2 FILE ACCESS AND SECURITY

All reports including, but not limited to, initial, supplemental, follow-up, evidence, and all reports critical to a case shall be maintained in a secure area within the Records Bureau accessible only to authorized personnel. Access to report files after hours or when records personnel are otherwise not available may be obtained through the Watch Commander.

Hayward Police Department employees shall not access, view or distribute, or allow anyone else to access, view or distribute any record, file or report, whether hard copy or electronic file format, except in accordance with Department policy and with a legitimate law enforcement or business purpose or as otherwise permissible by law.

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803.2.1 REQUESTING ORIGINAL REPORTS

Generally, original reports shall not be removed from the Records Bureau. Should an original report be needed for any reason the requesting employee shall first obtain authorization from the Records Supervisor. All original reports removed from the Records Bureau shall be recorded with the Records Supervisor.

803.3 REQUISITION OF SUPPLIES

All personnel who are in need of clerical supplies shall contact their Division secretary as appropriate.

803.3.1 RECORDS ADMINISTRATOR

The Chief of Police shall appoint and delegate certain responsibilities to a Records Administrator. The Records Administrator shall be directly responsible to the Support Services Division Commander or the authorized designee.

The responsibilities of the Records Administrator include, but are not limited to:

(a) Overseeing the efficient and effective operation of the Records Bureau.

(b) Scheduling and maintaining Records Bureau time records.

(c) Supervising, training and evaluating Records Bureau staff.

(d) Maintaining and updating a Records Bureau procedure manual.

(e) Ensuring compliance with established policies and procedures.

(f) Supervising the access, use and release of protected information (see the Protected Information Policy).

(g) Establishing security and access protocols for case reports designated as sensitive, where additional restrictions to access have been implemented. Sensitive reports may include, but are not limited to:

1. Homicides.
2. Cases involving [department/office] members or public officials.
3. Any case where restricted access is prudent.

803.3.2 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.

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.

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(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:

(a) The Internal Affairs Unit maintains all officer-involved shootings and incidents involving use of force resulting in serious bodily injury (Government Code § 12525.2).

(b) Suspected hate crimes (Penal Code § 13023).

(c) The Internal Affairs Unit maintains all complaints of racial bias against officers (Penal Code § 13012; Penal Code § 13020).

(d) The Internal Affairs Unit maintains all civilian complaints made against officers (Penal Code § 832.5; Penal Code § 13012).

(e) An officer maintains 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).

(f) Anti-reproductive rights crime information required by Penal Code § 13777.

(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) Updating the Automated Firearms System to reflect any firearms relinquished to the [Department/Office] and the subsequent disposition to the DOJ pursuant to Penal Code § 34010 (Penal Code § 29810).

(h) Entering into the Automated Firearms System information about each firearm that has been reported stolen, lost, found, recovered, held for safekeeping, surrendered in relation to a private party firearms transaction or registration, relinquished pursuant to a court order, or under observation, within seven calendar days of the precipitating event (Penal Code § 11108.2).

(i) Maintaining compliance with the state and 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)).

(j) Transmitting data to the Joint Regional Information Exchange System on any suspected multi-mission extremist crimes.

803.3.3 RECORDS BUREAU PROCEDURE MANUAL

The Records Administrator 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.

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(d) Assigning alpha-numerical records to all arrest records.

(e) Managing a warrant and wanted persons file.

803.4 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by officers of the Hayward Police Department and no accusatory pleading has been filed, the person arrested may petition the Department to destroy the related arrest records. Petitions should be forwarded to the Records Administrator. The Records Administrator should promptly review the petition (Penal Code § 851.8). Factual innocence means the accused person did not commit the crime.

If there is a finding of factual innocence, then the Records Admnistrator shall ensure that the arrest record and petition are sealed for later destruction and the required notifications are made to the California Department of Justice and other law enforcement agencies (Penal Code § 851.8).

The Records Administrator should respond to a petition with the Department's decision within 45 days of receipt. Responses should include only the decision of the Department, not an explanation of the analysis leading to the decision.

803.5 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):

(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 and the record reflects only a detention.

(c) The Bureau of Criminal Identification and Investigation of the Department of Justice is notified.

803.6 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.

803.7 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 Administrator. All original case reports removed from the Records

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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.

803.8 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.

803.9 REVISIONS

Enacted: December 17, 2007

Revised: July 8, 2009

Revised: February 7, 2010

Revised: August 13, 2010

Revised: March 16, 2011

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E-Reports (On-Line) and Phone Reports

804.1 PURPOSE AND SCOPE

To establish guidelines and procedures to determine when the Online Reporting and Telephone Reporting System will be utilized. It shall be the policy of the Hayward Police Department to provide Online and Phone Reporting Services to the Community.

804.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 82.2.5

804.2 E-REPORTS

The Hayward Police Department will respond to all in-progress incidents and all crimes with evidence or information, which may lead to the identity and/or apprehension of a suspect. Officers will also respond to incidents which have just occurred and there is a reasonable likelihood the suspect may still be in the area. The following crimes and reports may be referred to the On-line Reporting System:

(a) Any theft report where the loss is under $10,000.00 and there is no identifying suspect information, which can lead to an arrest. This does not include thefts of firearms or materials threatening to public safety, such as explosives or highly toxic substances. These incidents shall have an officer respond to investigate.

(b) Auto burglaries lacking suspect information that can lead to an arrest. If there is surveillance video of the auto burglary, an officer shall respond to investigate.

(c) Garage burglaries with no forced entry or identifying suspect information.

(d) Attempted auto thefts with no identifying suspect information.

(e) Vandalisms with no identifying suspect information. If a vandalism occurs that is determined to be a Hate Crime, an officer shall be dispatched to the scene to conduct an investigation.

(f) All annoying telephone calls with no identifying suspect information.

(g) Lost property reports. Even if the victim cannot determine if the property was lost or stolen, the report can be taken on-line, as long as there is no suspect information.

(h) Non injury hit and run accidents lacking identifying suspect information.

804.2.1 NON-REFERRALS

Under the following circumstances officers should not refer a citizen to the On-line Reporting System:

(a) If an officer is flagged down by a citizen to file a report which could be taken on-line, the officer shall take the report and not refer the citizen to the On-line System. If an officer is called away to a higher priority call, the officer can advise the citizen to call the dispatch center, who in turn can refer them to the On-line reporting process.

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(b) If an officer is flagged down for a report, which meets the On-line criteria, the officer cannot go on-line themselves to utilize the On-line Report System to document the report. Officers shall use our report writing process to document police reports.

(c) Any investigation involving serialized property where the numbers are provided by the victim will not be taken on-line. For the purpose of this directive, credit cards and miscellaneous identification, such as medical cards, driver's licenses or social security cards will not be considered serialized property.

(d) Missing person reports shall never be taken on-line.

804.2.2 COMMUNICATIONS CENTER RESPONSIBILITIES

When a dispatcher receives a call from a citizen wishing to report an incident, the dispatcher will determine if the call falls within the scope of an on-line report. If so, the communications operator shall:

(a) Ask the citizen if they have access to the Internet.

(b) Inform the caller their report can be taken on-line, which will allow them access to file the report immediately, as well as obtain a copy of their report for free.

(c) Direct the caller to the Hayward Police Department's website address, so they can file the report on-line. Advise them that once they gain access to our website, they will be guided through the on-line report writing process.

If the dispatcher determines the report is not suitable for on-line reporting based on the listed criteria, they will prioritize the call and either have an officer respond, assign it to the Telephone Reporting Unit or send it to the Desk Officer to take the report. If a citizen demands to file a report with an officer, or if they call back and state they are having difficulty filing the report on-line, the incident will be transferred to the Telephone Reporting Unit to take the report.

804.2.3 REPORT REVIEW AND APPROVAL

The Hayward Police Department's Field Training Officers will be responsible for reviewing the reports submitted on-line. It will be their responsibility to check the website daily and pull up all reports submitted to the system. Training will be given to all Field Training Officers on the review and approval process.

(a) If an On-line report has been misclassified, such as an auto burglary being reported as a theft, then the Field Training Officer can reclassify the report according to the elements outlined in the report.

(b) Reviewing officers should refrain from making grammatical corrections to the On-line reports.

(c) An On-line report can be rejected by the reviewing officer. If the report is rejected, the reason for the rejection shall be noted in an appropriate and professional manner in the rejection box on the form. The report will then be sent back to the citizen via e-mail.

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(d) If appropriate, the reviewing officer can request a patrol response when they believe the circumstances of the On-line report warrant further investigation. If this occurs, the reviewing officer shall reject the report and return it to the citizen. The officer will document in the rejection box that the report has been rejected and that an officer will be contacting them to take the report in person. The reviewing officer will ensure that a CAD entry is made for a police response.

804.3 PROGRAM SUPERVISION

The E-Report On-line Report System shall be managed by a designated Watch Commander and supervised by all Patrol Sergeants.

804.4 TELEPHONE REPORTING UNIT (TRU)

804.4.1 PURPOSE AND SCOPE

The purpose of the Telephone Reporting Unit is to provide Police Officers with additional, unencumbered time while improving the service provided to the community. This additional time will be devoted to Community Policing and Problem Solving.

It shall be the policy of the Hayward Police Department to, when appropriate, utilize the Telephone Reporting Unit to reduce Police Officer workloads and to improve the quality of service provided to the community.

804.4.2 TYPES OF REPORTS TAKEN BY THE TRU

The following calls for service shall be handled by the TRU when there is no potential danger to the involved parties, the incident is not in progress and a rapid response is not advantageous:

(a) **MISSING PERSONS** - The TRU shall take missing persons reports with the exception of those cases where the missing person is deemed to be at risk. Whenever possible, face-to-face contact should be made with the reporting party. Missing persons reports shall be given priority by personnel taking the report to eliminate any unnecessary delay. Missing persons reports shall be completed in compliance with Departmental policy.

(b) **GRAND THEFT / PETTY THEFT / CRIMES AGAINST PROPERTY** - Reports in this category include but are not limited to:

1. Forced auto burglaries;
2. Thefts from open/unlocked vehicles;
3. Open large garage door burglaries committed without force or search;
4. Storage locker burglaries;
5. Commercial burglaries reported more than 24 hours after discovery
6. Exception: Thefts involving firearms or losses in excess of $10,000 should be dispatched to a patrol officer.

(c) **VANDALISM** - TRU shall not take vandalism where the motivation for the crime is or is suspected to be associated with a "Hate Incident or Hate Crime". In general, these

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incidents will be motivated in whole or in part by race, religion, ethnic origin or sexual orientation. Incidents involving a Hate Incident or Hate Crime will be dispatched to a patrol officer.

(d) **ANNOYING PHONE CALLS / GARBAGE DUMPS / DISTURBANCES**- TRU personnel may take these complaints when face-to-face contact with the suspect is not necessary or possible. If, while writing the initial report, TRU personnel develop information that requires face-to-face contact with the suspect they shall complete the original report and forward it to patrol for follow up.

(e) **TRAFFIC COLLISIONS** - TRU may take non-injury accident reports and Hit-and-Run reports where no suspect information is known. If TRU personnel are not available to respond a patrol officer should be dispatched.

(f) **NON-CRIMINAL INFORMATIONAL REPORTS**

(g) **FOLLOW UP / SUPPLEMENTAL** - TRU may complete follow up work when no face-to-face contact is required.

804.4.3 STAFFING

(a) The TRU function shall operate up to 24-hours a day. The position will be staffed by either TRU personnel, a Desk Officer, Police Officer, Reserve Officer, Police Cadet, or any other designed personnel who is deemed to be qualified and fully trained by the on-duty Watch Commander and/or Field Training Supervisor.

(b) The Desk Officer shall work closely with TRU personnel, periodically checking the "Holding" calls and assisting with TRU reports when possible.

(c) During the normal hours in which the TRU is not staffed the Desk Officer shall be responsible for the TRU function. During times when no desk officer is available, Patrol officers shall be responsible for the TRU function.

804.4.4 SUPERVISION

The TRU shall be managed by a designated Watch Commander and supervised by designated Patrol Sergeants.

804.5 REVISIONS

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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.

805.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

805.2 PROCEDURE

Any firearm coming into the possession of the Hayward 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 <u>before</u> 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 evidence 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
Property/Evidence personnel 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 and/or collected until it is released.

This report must include a record of the manner in which and/or from whom the firearm was received. This may appear on the crime lab 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 Property Unit Manager will assure that a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) NTC Obliterated Serial Number Trace Request Form (ATC 3312.1-OBL) is forwarded to the National Tracing Center 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.

805.4 REVISIONS
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Records Maintenance and Release

806.1 PURPOSE AND SCOPE

The purpose of this section is to establish a comprehensive reference and procedure for the maintenance and release of Department reports and records in accordance with applicable law.

806.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 81.1.1, 82.1.1, 82.1.2, 82.2.4

806.2 POLICY

The Hayward 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.

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(j) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 7922.700) is publicly available upon request and posted in a prominent location on the [Department/Office]'s website (Government Code § 7922.710; Government Code § 7922.720).

806.3.1 JUVENILE RECORDS

For guidelines on collecting, disseminating and retaining juvenile records, members should reference the Juvenile Records Processing procedure.

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

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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).

(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

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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).

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, or both, 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).

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(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.

(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 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, City Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

806.7 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.

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806.8 INTERNAL DISTRIBUTION OF REPORTS AND RECORDS

The Hayward Police Department currently employs two methods of internal routing of reports and records. An automated process utilizing the Record Management System and inter-departmental email allows for the selection of individual distribution point notifications to identified employees or work groups.

Secondly, a manual process utilizing a routing sheet that accompanies each report allows for Records Bureau personnel to be notified of necessary additional routing of the report to identified employees or work groups. The routing sheet also allows for supervisory approval of the report and selection of additional routing, as necessary. This routing sheet is maintained in the electronic case file, with notations of the internal routing being made.

806.9 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 Administrator 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.

806.9.1 SEALED JUVENILE ARREST RECORDS

Upon receiving notice from a probation department to seal juvenile arrest records pursuant to Welfare and Institutions Code § 786.5, the Records Administrator 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).

806.10 SECURITY BREACHES

The Records Administrator 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):

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(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

806.10.1 FORM OF NOTICE

(a) The notice shall be written in plain language, be consistent with the format provided in Civil Code § 1798.29 and include, to the extent possible, the following:

1. The date of the notice.
2. Name and contact information for the Hayward 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 Hayward 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):

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1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the Department in addition to any other online accounts for which the person uses the same username or email address and password or security question and answer.
2. When the breach involves an email address that was furnished by the Hayward 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.

806.10.2 MANNER OF NOTICE

(a) Notice may be provided by one of the following methods (Civil Code § 1798.29):

1. Written notice.
2. Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC § 7001.
3. Substitute notice if the cost of providing notice would exceed $250,000, the number of individuals exceeds 500,000 or the Department does not have sufficient contact information. Substitute notice shall consist of all of the following:
   (a) Email notice when the Department has an email address for the subject person.
   (b) Conspicuous posting of the notice on the department's webpage for a minimum of 30 days.
4. Notification to major statewide media and the California Information Security Office within the California Department of Technology.

(b) If a single breach requires the Department to notify more than 500 California residents, the Department shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the Attorney General.

806.11 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 Internal Affairs Unit supervisor in determining what recordings may qualify for disclosure when a request for a

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recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

806.11.1 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).

806.11.2 NOTICE OF DELAY OF RELEASE

When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Government Code § 7923.625):

(a) 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.

(b) 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.

806.11.3 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).

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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).

806.11.4 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 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).

806.12 REVISIONS

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Records Maintenance and Release

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Protected Information

807.1 PURPOSE AND SCOPE

This policy provides guidelines for the release of criminal offender information, security of that information, and persons authorized to release that information.

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 Hayward 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.

807.1.2 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 82.1.1, 82.1.2, 82.1.7

807.2 POLICY

This policy is established pursuant to the mandate of the Regulations Regarding Security of Criminal Offender Record Information in California, Title 11, California Administrative Code. Other authority includes Penal Code § 11105, which delineates who has access to Criminal Offender Record Information (CORI), and Penal Code § 11140 through 11144, which establishes penalties for the improper use of rap sheets.

807.3 RESPONSIBILITIES

Criminal Offender Record Information - (CORI) shall include CII manual/automated rap sheets and abstracts, CII crime summaries, CII criminal history transcripts, FBI rap sheets, and any HPD documents containing a list of prior arrests.

Criminal Justice Agency - A public agency or component thereof which performs a criminal justice activity as its principal function.

Authorized Recipient - Any person or agency authorized by court order, statute or case law to receive CORI.

Right to Know - Persons or agencies authorized by court order, statute or decisional case law to receive the information.

Need to Know - A necessity exists to obtain CORI in order to execute official responsibilities.

807.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Hayward 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.

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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.

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).

807.4.2 RELEASE OF CORI
Only the persons listed below are authorized to release CORI. Each authorized person releasing CORI is responsible to ensure that each request granted appears legitimate and that the requester is an authorized recipient with a right and need to know.

(a) Criminal Records Security Officer.

(b) Records Supervisor.

(c) Full-time employees of the Records Bureau.

(d) Personnel specifically designated in writing by Division Commanders with the concurrence of the Criminal Records Security Officer.

807.4.3 RELEASE OF CORI TO FIELD PERSONNEL
Personnel shall not have access to CORI until a background investigation has been completed and approved.

CORI shall not generally be transmitted by radio, cellular phone, or through computer terminals to field personnel or vehicles except in cases where circumstances reasonably indicate that the immediate safety of the officer or the public are at significant risk. Examples of situations where the transmission of summary criminal history information would be justified include a hostage situation or an armed suspect however a routine investigation or traffic enforcement stop would not be sufficient justification.

Nothing in this procedure is intended to prohibit broadcasting warrant information concerning wanted persons.

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 Administrator for information regarding a formal request.

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Protected Information

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 after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).

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 MDC 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 to oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

(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.

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(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).

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.

807.7.1 COMPUTER TERMINAL SECURITY
Computer terminal equipment capable of providing access to automated criminal offender record information is located in the Records Bureau, the Communications Center, Jail, Police Officer Report Writing Room, and in the Criminal Investigations Bureau to preclude access by unauthorized persons.

No employee shall be authorized to operate computer terminal equipment with access to CORI until the operator has completed the appropriate training and obtains permission by a supervisor.

807.7.2 DESTRUCTION OF CORI
When any document providing CORI has served the purpose for which it was obtained, it shall be destroyed by shredding.

Each employee shall be responsible for destroying the CORI documents they receive when they are no longer needed.

807.7.3 CUSTODIAN OF CRIMINAL RECORDS
The Records Bureau Administrator, unless otherwise directed by the Support Services Manager, shall be the Department's official Custodian of Criminal Records. The Custodian of Criminal Records shall be responsible for the security, storage, dissemination and destruction of criminal records, and will serve as a primary contact for the California Department of Justice for any related issues. The Support Services Manager may appoint other Department employees to the role of Custodian of Criminal Records, who will share the same responsibilities regarding criminal records.

The Support Services Manager will ensure that he/she makes the appropriate applications and notifications to the California Department of Justice regarding the Department's Custodian of Criminal Record appointments, per the requirements of Penal Code § 11102.2.

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This subsection is not intended to interfere with any other employee acting as a custodian of records for other statutory purposes but is narrowly tailored to address issues of criminal history records.

807.8 TRAINING PROGRAM

All personnel authorized to process or release CORI shall be required to complete a training program prescribed by the agency Terminal Coordinator. The Personnel & Training Bureau shall coordinate the course to provide training in the proper use, control, and dissemination of CORI.

807.9 PENALTIES FOR MISUSE OF RECORDS

Penal Code § 11140 and 11144 make it a misdemeanor to furnish, buy, receive, or possess Department of Justice rap sheets without authorization by a court, statute, or case law.

Title 11, California Administrative Code § 702 provides that authorized persons or agencies violating the Regulations Regarding the Security of Criminal Offender Record Information in California may lose direct access to CORI maintained by the California Department of Justice.

Divulging the content of any criminal record to anyone other than authorized personnel is a violation of the Standards of Conduct Policy.

Employees who obtain, or attempt to obtain, information from the Department files other than that to which they are entitled in accordance with their official duties is a violation of the Standards of Conduct Policy.

807.10 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not release personal information from any agency database for the purpose of investigation or enforcement of any program compiling data on individuals based on religious belief, practice, affiliation, national origin or ethnicity (Government Code § 8310.3).

807.11 REVISIONS

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Computers and Digital Evidence

808.1 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.

808.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 83.2.1, 83.2.5

808.2 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 and external drives) with care so that potential evidence is not lost.

(g) Lodge all computer items in secured Property/Evidence lockers. Do not store computers where normal room temperature and humidity is not maintained.

(h) At minimum, officers should document the following in related reports:

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1. Where the computer was located and whether or not it was in operation.
2. Who was using it at the time.
3. Who claimed ownership.
4. If it can be determined, how it was being used.

(i) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (hard drives, tape drives, and disk drives) should be seized along with all media. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software and manuals) should not be seized unless as a precursor to forfeiture.

808.2.1 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.

808.2.2 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.

808.3 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 and immediate investigation request, the Property/Evidence Unit is to copy the contents to an appropriate form of storage media.

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(c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.

(d) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.

(e) Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

808.4 SEIZING PERSONAL COMMUNICATION DEVICES

Personal communication devices (PCD's) such as cell phones, PDA's or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

(a) Officers should 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.

808.5 DIGITAL EVIDENCE RECORDED BY OFFICERS

Officers handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

808.5.1 COLLECTION OF DIGITAL EVIDENCE

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Digital, video and audio files shall not be altered in any way.

808.5.2 SUBMISSION OF DIGITAL MEDIA

The following are required procedures for the submission of digital media used by cameras or other recorders:

(a) The recording media (smart card, compact flash card or any other media) shall be brought to the Property/Evidence Unit and/or Police Officer Report Writing Room as soon as possible for submission into evidence.

(b) Sworn Officers and Crime Scene Technicians are the only employees authorized to download digital media made from the memory cards to compact disks (CD's).

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(c) As soon as possible following the collection of evidence, the camera operator is to remove the memory card from their digital camera and download the images to an evidence CD, which is made available by the Department. Once the camera operator has verified that the images properly transferred to the CD, that CD will then be placed into an evidence envelope and sealed. The camera operator shall write their name and the related case number on the outside of the envelope along with all other required information before placing it in a secured Property/Evidence locker.

(d) Again, once the camera operator has verified that the images properly transferred to the evidence CD, they will erase the memory card for re-use. The CD will be marked as the original.

(e) Officers requiring a copy of the digital files must request a copy on the evidence form when submitted into Property/Evidence.

808.5.3 DOWNLOADING OF DIGITAL FILES

Digital information such as video or audio files recorded on devices using internal memory must be downloaded to storage media. The following procedures are to be followed:

(a) Files should not be opened or reviewed prior to downloading and storage.

(b) Where possible, the device should be connected to a computer and the files accessed directly from the computer directory or downloaded to a folder on the host computer for copying to the storage media.

808.5.4 PRESERVATION OF DIGITAL EVIDENCE

(a) Only Property/Evidence personnel are authorized to copy original digital media that is held as evidence. The original digital media shall remain in evidence and shall remain unaltered.

(b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.

(c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.

808.6 REVISIONS

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Police Auxiliary Program

809.1 PURPOSE AND SCOPE

This policy provides a directive that establishes and describes the Hayward Police Auxiliary Program including their role and scope of authority.

809.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 16.4.1, 16.4.2, 16.4.3

809.2 PROGRAM DESCRIPTION

The Hayward utilizes volunteer personnel to perform a wide variety of Departmental and community service assignments to support the day to day operations of the Department, assist the agency, and to benefit the citizens of Hayward.

Hayward Police Auxiliaries are not sworn officers or employees and have no powers of arrest beyond those of any private person. Auxiliaries do not carry firearms or weapons of any kind, and are prohibited from contacting, detaining, or arresting suspicious persons and/or criminals.

809.2.1 AUXILIARY DEFINITION

Any professional staff, unarmed, uniformed or non-uniformed affiliate whose duties contribute to the mission of the Department in a support capacity. Included are Police Volunteers and Law Enforcement Explorers. Excluded are full or part-time paid employees of the Department and Reserve Officers.

809.3 VOLUNTEER QUALIFICATIONS AND SELECTION

Police Auxiliaries must be of sound mind and morale character, free from affiliation with criminals or personal criminal history that would indicate incompatibility with Department membership. All Hayward Police Department Auxiliaries must be "authorized volunteers". This means they must have successfully completed the following steps:

(a) Application

(b) Personal History Statement

(c) "Livescan" Fingerprint Check

(d) Background Investigation

(e) Oral Interview

809.4 AUXILIARY TRAINING

Due to the nature and variety of Auxiliary assignments, the Department recognizes that special training is necessary to provide Auxiliaries with the knowledge, skill, and ability to perform their duties in a safe, competent, and professional manner. All Auxiliaries will be provided with on-the-job training specific to their assigned roles and assignments.

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809.5 UNIFORMS AND IDENTIFICATION

Police Volunteers are exempted from wearing a uniform while performing their administrative only tasks. Police Explorers will wear a light blue uniform shirt and dark blue uniform pants to distinguish themselves from that of uniformed sworn and Reserve Officers. All non-uniformed Police Volunteers are required to display the Department Issued Identification Card while in any police facility that they are assigned to.

809.6 AUXILIARY DUTIES

Police Auxiliaries perform a variety of administrative tasks within the police mission. Auxiliaries shall not be involved in enforcement activities that will bring them in contact with suspects or violators. Auxiliary duty assignments exist in most Divisions and Bureaus within the Department. Specific assignments and duties for Police Auxiliaries are maintained by the Personnel and Training Bureau. Police Auxiliaries shall perform only the duties and assignments approved by agency staff.

809.7 REVISIONS

Enacted: August 21, 2009

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Animal Control

810.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for Animal Control Officers (ACO's) and Hayward Police Department personnel in dealing with animal control related calls for service and to set forth procedures regarding animal control services, the handling of injured animals, and the abatement of animal nuisances.

810.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

810.2 ANIMAL CONTROL OFFICER RESPONSIBILITY

The Animal Control Officer (ACO) shall be responsible for enforcing local, state and federal laws relating to animals, and for appropriately resolving or referring animal problems as outlined in this policy. The ACO shall be under the operational control of the Support Services Division. The Animal Control Officer's assigned working hours will be scheduled by the Support Services Manager.

During hours when the ACO is on duty, requests for animal control services shall be assigned by the Communications Center or the Watch Commander.

Requests for assistance by the ACO shall be acknowledged and responded to promptly.

810.3 OFFICER RESPONSIBILITY

Police Officers may be dispatched to animal related calls to assist an ACO 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.

During hours when the Animal Control Officer is off duty, or if the ACO is otherwise unavailable, the following animal related calls for service will be handled by an on-duty police officer with the approval of the Other:

(a) When there is a threat to the public safety.

(b) When animal has bitten someone, officers should take reasonable measures to confine the animal and prevent further injury if able to safely do so. If the owner is known, it is preferable to require the owner to confine the animal until contacted by Animal Control.

(c) When an animal is creating a traffic hazard on a major thoroughfare.

(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.

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810.3.1 ANIMAL CRUELTY COMPLAINTS

In the absence of an on duty Animal Control Officer, Police Officers shall conduct a preliminary investigation on all reports of animal cruelty and forward the information, in the form of a report to the ACO for follow-up. Officers shall not hesitate to take any immediate actions deemed necessary. The assistance of an animal service officer may be requested to assist with the investigation when appropriate for the purpose of handling the disposition of any animal(s) associated with the case.

810.3.2 STRAY DOGS

ACOs and Police Officers shall not respond to stray dog calls absent an immediate threat to public safety such as: demonstrated vicious behavior, creating a traffic hazard on a major thoroughfare, or serious public safety consideration.

If the 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 Animal Services Shelter or to the night depository box at the shelter if the facility is closed.

The animal pick-up form must be completely filled out and placed in the deposit box. Release of impounded dogs requires a fee be paid. Releases will be handled by the ACO or, in his/her absence, the Animal Services Records staff will accept fees and issue receipts.

The Animal Care Attendant will remove any animals from the night depository boxes as soon as he/she comes on duty. Once a dog has been taken into custody, all releases should be handled by the Animal Services Shelter.

810.3.3 ANIMAL BITE REPORTS

Officers shall obtain as much information as possible in the form of a report that shall be forwarded to the ACO for follow-up. Food & Agriculture Code Section § 31625 requires any law enforcement or animal control officer to impound potentially dangerous animals.

Officers shall instruct the owner of a biting animal, if contacted, to keep the animal confined on the property until contacted by the ACO. If the animal is a stray, then every effort shall be made to capture and impound the animal immediately.

810.3.4 PUBLIC NUISANCE CALLS RELATING TO ANIMALS

Police Officers will only respond to public nuisance calls relating to animals that pose an immediate threat to public safety as outlined above. All other calls may be referred to Animal Services during normal business hours.

In the event responding officers cannot fulfill urgent requests for service because the animal is difficult or dangerous to handle, the ACO may be called to duty to handle. If the ACO is unavailable, the patrol supervisor may request the assistance of an animal control officer from an allied agency.

All requests to call in the ACO must be approved by a field supervisor or the Watch Commander.

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810.4 DECEASED ANIMALS

Deceased animals on public property will be removed and properly disposed of by the ACO when on duty an available from priority calls. Police Officers will not be dispatched for the removal of dead animals when there is no ACO on duty. No ACO, police officer, or any other Department employee will be required to remove a deceased animal from private property.

810.5 INJURED 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)).

(a) When handling dead or injured animals department employees shall attempt to identify and notify the owner of the final disposition of the animal.

(b) During normal business hours, the animal should be taken to an authorized veterinary care clinic.

(c) If after normal business hours, the animal should be taken to the authorized Veterinary Emergency & Critical Care Services Clinic.

(d) 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.

1. When the need to kill a seriously injured or dangerous animal is necessary, the Department Use of Force Policy shall be followed. The decision to dispose of a seriously injured animal will rest with the on-duty Watch Commander.

(e) Injured wildlife should be referred to the SPCA, Marine Mammal Center or Department of Fish and Wildlife as applicable. The SPCA will not pick up common pigeons (red legs), starlings, bats or skunks.

(f) In all cases the incident shall be documented, and if handled by any member of the Department other than the on-duty ACO, the ACO will be advised of the disposition of the animal and the associated reporting party information.

810.6 POST-ARREST PROCEDURES

The arresting officer should make a reasonable effort to ensure that animals or pets under a person's care will be provided with adequate care when that person is arrested.

810.7 NIGHT DEPOSITORY BOXES

Holding cages, known as the night depository boxes, are located at Animal Services on the front of the building near the large rollup door. Night depository boxes are not left open to the public. Citizens who find an animal and need to turn it in after hours may contact the HPD for assistance, and if an officer is available one may respond to open a box.

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810.8 REVISIONS

Enacted: December 17, 2007

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Revised: May 24, 2013

Revised: July 9, 2013

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Jeanne Clery Campus Security Act

811.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines to ensure this department fulfills its obligation in complying with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) as well as applicable California Education Code requirements.

811.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 91.4.1

811.2 POLICY

The Hayward Police Department encourages accurate and prompt reporting of all crimes and takes all such reports seriously (20 USC § 1092(f)(1)(C)(iii)). Reports will be accepted in any manner, including in person or in writing, at any Hayward Police Department facility. Reports will be accepted anonymously, by phone or via email or on the institution's website.

It is the policy of the Hayward Police Department to comply with the Clery Act. Compliance with the Clery Act requires a joint effort between the Hayward Police Department and the administration of the institution.

Supervisors assigned areas of responsibility in the following policy sections are expected to be familiar with the subsections of 20 USC § 1092(f) and 34 CFR 668.46 that are relevant to their responsibilities.

811.3 POLICY, PROCEDURE AND PROGRAM DEVELOPMENT

The Chief of Police will:

(a) Ensure that the Hayward Police Department establishes procedures for immediate emergency response and evacuation, including the use of electronic and cellular communication and testing of these procedures (20 USC § 1092(f)(1)(J)(i); 20 USC § 1092(f)(1)(J)(iii)).

(b) Enter into written agreements as appropriate with local law enforcement agencies to (Education Code § 67381.1):

1. Identify roles in the investigation of alleged criminal offenses on campus (20 USC § 1092(f)(1)(C)(ii)).

    (a) This includes identification of the responsibilities for sexual assault, hate crimes and Part 1 violent crime investigations (e.g., willful homicide, forcible rape, robbery or aggravated assault as defined in the FBI's Uniform Crime Reporting (UCR) Handbook), and establishing the specific geographical boundaries of each agency's responsibility, including maps as necessary (Education Code § 67381).

2. Assist in the monitoring and reporting of criminal activity at off-campus student organizations that are recognized by the institution and engaged in

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by students attending the institution, including student organizations with off-campus housing facilities (20 USC § 1092(f)(1)(G)).

3. Ensure coordination of emergency response and evacuation procedures, including procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation (20 USC § 1092(f)(1)(J)).

4. Notify the Hayward Police Department of criminal offenses reported to local law enforcement agencies to assist the institution in meeting its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)).

5. Notify the Hayward Police Department of criminal offenses reported to local law enforcement agencies to assist in making information available to the campus community in a timely manner and to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).

(c) Appoint a designee to develop programs that are designed to inform students and employees about campus security procedures and practices, and to encourage students and employees to be responsible for their own security and the security of others (20 USC § 1092(f)(1)(D)).

(d) Appoint a designee to develop programs to inform students and employees about the prevention of crime (20 USC § 1092(f)(1)(E)).

(e) Appoint a designee to develop educational programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking, and what to do if an offense occurs, including but not limited to, who should be contacted, the importance of preserving evidence and to whom the alleged offense should be reported (20 USC § 1092(f)(8)(B)). The designee shall also develop written materials to be distributed to reporting persons that explains the rights and options provided for under 20 USC § 1092 (20 USC § 1092(f)(8)(C)).

(f) Appoint a designee to make the appropriate notifications to institution staff regarding missing person investigations in order to ensure that the institution complies with the requirements of 34 CFR 668.46(h).

811.3.1 ADDITIONAL REQUIREMENTS

The Chief of Police or the authorized designee will also (Education Code § 67386):

(a) Assist the institution with the development of policies and procedures relating to sexual assault, domestic violence, dating violence and stalking involving a student whether it occurred on- or off-campus including:

1. The differences between standards of proof and defenses in criminal investigations and administrative or disciplinary matters.

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2. Victim-centered protocols including privacy protection, responses to reports, interviews, investigations, required notifications and participation by victim advocates and other supporting individuals.

(b) Assist, as appropriate, with trauma-informed training for campus personnel involved in investigating and adjudicating sexual assault, domestic violence, dating violence and stalking cases.

(c) Assist, as appropriate, in the development of the institution's comprehensive prevention and outreach programs addressing sexual violence, domestic violence, dating violence, and stalking.

(d) Ensure that any reported Part 1 violent crime, sexual assault or hate crime described in Penal Code § 422.55 (whether it occurred on- or off-campus), is reported as soon as practicable to any local law enforcement agency with investigation responsibilities pursuant to a written agreement with the Hayward Police Department or the institution (Education Code § 67380).

1. The identification of the victim shall be withheld, unless the victim consents to being identified after being informed of the right to have his/her personally identifying information withheld. If the victim does not consent to being identified, then the alleged assailant shall not be identified unless the institution determines that the alleged assailant represents a serious or ongoing threat to the safety of the students, employees or the institution, and the immediate assistance of the Hayward Police Department is necessary to contact or detain the assailant (Education Code § 67380).

2. If the institution discloses the identity of the alleged assailant to the Hayward Police Department, the institution must immediately inform the victim of that disclosure (Education Code § 67380).

811.4 RECORDS COLLECTION AND RETENTION

The Records Administrator is responsible for maintaining Hayward Police Department statistics and making reasonable good-faith efforts to obtain statistics from other law enforcement agencies as necessary to allow the institution to comply with its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)). The statistics shall be compiled as follows:

(a) Statistics concerning the occurrence of the following criminal offenses reported to this [department/office] or to local police agencies that occurred on campus, in or on non-campus buildings or property, and on public property including streets, sidewalks and parking facilities within the campus or immediately adjacent to and accessible from the campus (20 USC § 1092(f)(1)(F)(i); 34 CFR 668.46(c)):

1. Murder
2. Sex offenses, forcible or non-forcible
3. Robbery
4. Aggravated assault
5. Burglary

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6. Motor vehicle theft
7. Manslaughter
8. Arson
9. Arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations and weapons possession
10. Dating violence, domestic violence and stalking

(b) Statistics concerning the crimes described in the section above, theft, simple assault, intimidation, destruction, damage or vandalism of property, and other crimes involving bodily injury to any person where the victim was intentionally selected because of his/her actual or perceived race, sex, religion, gender, gender identity, sexual orientation, ethnicity or disability. These statistics should be collected and reported according to the category of prejudice (20 USC § 1092(f)(1)(F)(ii); 34 CFR 668.46(c)).

1. The statistics shall be compiled using the definitions in the FBI's UCR system and modifications made pursuant to the Hate Crime Statistics Act (20 USC § 1092(f)(7); 34 CFR 668.46(c)(9)). For the offenses of domestic violence, dating violence and stalking, such statistics shall be compiled in accordance with the definitions used in the Violence Against Women Act (20 USC § 1092(f)(7); 34 USC § 12291; 34 CFR 668.46(a)). The statistics will be categorized separately as offenses that occur in the following places (20 USC § 1092(f)(12); 34 CFR 668.46(c)(5)):
   (a) On campus.
   (b) In or on a non-campus building or property.
   (c) On public property.
   (d) In dormitories or other on-campus, residential or student facilities.

(c) Statistics will be included by the calendar year in which the crime was reported to the Hayward Police Department (34 CFR 668.46(c)(3)).

(d) Stalking offenses will include a statistic for each year in which the stalking conduct is reported and will be recorded as occurring either at the first location where the stalking occurred or the location where the victim became aware of the conduct (34 CFR 668.46(c)(6)).

(e) Statistics will include the three most recent calendar years (20 USC § 1092(f)(1)(F); 34 CFR 668.46(c)).

(f) The statistics shall not identify victims of crimes or persons accused of crimes (20 USC § 1092(f)(7)).

811.4.1 CRIME LOG

The Records Administrator is responsible for ensuring a daily crime log is created and maintained as follows (20 USC § 1092(f)(4); 34 CFR 668.46(f)):

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(a) The daily crime log will record all crimes reported to the Hayward Police Department, including the nature, date, time and general location of each crime, and the disposition, if known.

(b) All log entries shall be made within two business days of the initial report being made to the Department.

(c) If new information about an entry becomes available, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police department or security department.

(d) The daily crime log for the most recent 60-day period shall be open to the public for inspection at all times during normal business hours. Any portion of the log that is older than 60 days must be made available within two business days of a request for public inspection. Information in the log is not required to be disclosed when:

1. Disclosure of the information is prohibited by law.
2. Disclosure would jeopardize the confidentiality of the victim.
3. There is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, may cause a suspect to flee or evade detection, or could result in the destruction of evidence. In any of these cases, the information may be withheld until that damage is no longer likely to occur from the release of such information.

811.4.2 COMPILING RECORDS FOR DISCLOSURE REQUIREMENTS

The Records Administrator is also responsible for compiling the following to allow the institution to comply with its disclosure requirements under Education Code § 67380:

(a) All occurrences reported to the Hayward Police Department and all arrests for crimes that are committed on campus that involve violence, hate violence, theft, destruction of property, illegal drugs, or alcohol intoxication.

(b) All occurrences of noncriminal acts of hate violence reported to the Hayward Police Department for which a written report is prepared.

811.5 INFORMATION DISSEMINATION

It is the responsibility of the Support Services Division Commander to ensure that the required Clery Act disclosures are properly forwarded to campus administration and community members in accordance with institution procedures. This includes:

(a) Procedures for providing emergency notification of crimes or other incidents and evacuations that might represent an imminent threat to the safety of students or employees (20 USC § 1092(f)(3); 34 CFR 668.46(e); 34 CFR 668.46 (g)).

(b) Procedures for notifying the campus community about crimes considered to be a threat to other students and employees in order to aid in the prevention of similar crimes.

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Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).

(c) Information necessary for the institution to prepare its annual security report (20 USC § 1092(f)(1); 34 CFR 668.46(b)). This report will include, but is not limited to:

1. Crime statistics and the policies for preparing the crime statistics.
2. Crime and emergency reporting procedures, including the responses to such reports.
3. Policies concerning security of and access to campus facilities.
4. Crime, dating violence, domestic violence, sexual assault and stalking awareness and prevention programs, including
   (a) Procedures victims should follow.
   (b) Procedures for protecting the confidentiality of victims and other necessary parties.
5. Enforcement policies related to alcohol and illegal drugs.
6. Locations where the campus community can obtain information about registered sex offenders.
7. Emergency response and evacuation procedures.
8. Missing student notification procedures.
9. Information addressing the jurisdiction and authority of campus security including any working relationships and agreements between campus security personnel and both state and local law enforcement agencies.

811.6 REVISIONS

Enacted: November 3, 2014

Revised: May 23, 2016

Revised: September 17, 2018

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Chapter 9 - Detention Facility

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Detention Facility

900.1 PURPOSE AND SCOPE

In compliance with California Administrative Code § 1029, Title 15, this order sets out the policies and procedures of the Hayward City Jail (Detention Facility). It covers responsibility and authority within the jail, general jail security, emergency procedures; procedures for receiving, caring for and releasing prisoners without violating individual prisoners' rights, endangering prisoners or staff, or breaching the security of the jail.

The only temporary detention conducted by the Hayward Police Department applies to the custody of juveniles. All adult detainees are immediately processed into the Hayward Police Department Detention Facility. This facility is classified by the State of California, Corrections Standards Authority as a "Type 1" facility. A type 1 facility is a local detention facility used for the detention of persons usually pending arraignment, but not more than ninety-six (96) hours. This facility is not under the supervision of law enforcement officers but under the control of the Support Services Manager, Jail Administrator, Jail Supervisor and Community Service Officers. All of the personnel assigned to the Detention Facility are state certified by the Standards for Training for Corrections. There are no provisions within the department to use any other room(s) and areas(s) within the law enforcement facility for the purpose of adult detainee processing, testing, and temporary detention.

900.2 RESPONSIBILITY AND AUTHORITY

(a) The Hayward City Jail is under the command and control of the Support Services Director, subject to the approval of the Chief of Police. The Support Services Director is responsible for the enforcement of all rules and regulations governing the operation of the Jail and management of the facility, its personnel and prisoners.

(b) The operation of the Jail shall be in accordance with all applicable sections of the California Administrative, Civil and Penal Codes, the Hayward City Charter and the Hayward General Orders. The Jail facility falls within the definitive terms of the California Administrative Code, Title 15, Subchapter 4, Section § 1006 titled "Type One Jail Facility." All applicable sections therein shall be adhered to.

900.3 DEFINITIONS

Emergencies: An emergency is defined as any significant disruption of normal facility procedure, policy or activity which is caused by a riot, fire, earthquake, attack, strike or other similar disturbance.

Type 1 Facility: The Hayward City Jail is classified by the State of California, Corrections Standards Authority as a "Type 1" facility. A Type 1 facility is a local detention facility used for the detention of persons usually pending arraignment, for not more than 96 hours, excluding holidays, after booking. A Type 1 facility may also detain persons on court order either for their own safekeeping or sentenced to a City Jail as a prisoner worker, and may house prisoner workers

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sentenced to the County Jail provided such placement in the facility is made on a voluntary basis on the part of the prisoner.

900.4 COMMAND AND CONTROL

Staff assigned to the Jail facility are managed and controlled in the following order:

- Support Services Manager
- Jail Administrator
- Jail Supervisor
- Community Service Officer (CSO)

The supervision of Jail personnel is the responsibility of the Jail Administrator under the direction of the Support Services Manager. The Jail Supervisor shall be responsible for the overall security of the Jail facility during their shift. The Jail Supervisor assigned to each shift is ultimately responsible for the supervision of the personnel assigned to the Jail, the safety, security and welfare of employees, prisoners, and the physical facility itself. In the absence of the Jail Supervisor, the most senior CSO on duty will assume this responsibility.

The Jail Supervisor is responsible for reviewing all Jail prisoner processing documents for completeness and accuracy. After reviewing the documents, the Jail Supervisor shall ensure that the documents are placed on the Identification Clerk's desk prior to completing their shift. The Jail Supervisor is responsible for conducting an average daily prisoner population count. That count shall be accomplished at 0200 hours each day and shall be divided between males and females, as well as, the total number of each currently in custody within the Jail. This physical count shall be recorded on a document supplied by the Jail Administrator, and will be forwarded to the Corrections Standards Authority at the end of each year.

900.5 OPERATION

The Hayward City Jail is located within the Hayward Police Department building, 300 West Winton Avenue, Hayward, California. This facility is operated on a 24-hour basis. This operation will normally provide for the care and custody of all persons arrested or detained by the Hayward Police Department.

900.6 REVISION OF ORDERS

This policy shall be reviewed annually by the Jail Administrator and revised as appropriate. No procedures or rules may be changed or new procedures or rules established without the authorization of the Support Services Manager, except by direct approval of the Chief of Police.

900.7 TRAINING

(a) **Jail Management Training**. The Jail Administrator shall complete either the POST or STC Management Course as specified in 15 CCR § 182.

(b) **Jail Supervisory Training**. All Jail Supervisors shall attend the POST or STC Supervisory Training. Prior to appointment as a supervisor, these personnel shall have

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completed the corrections officer core course. Supervisory training shall be completed within one year of appointment.

(c) **Community Service Officers**. All Community Service Officers (CSO) shall meet the certification standards outlined by the "Standards for Training for Corrections Program" as required by the State of California, Corrections Standards Authority. This certification shall be completed within the first year of employment, as specified in 15 CCR § 179. Custodial personnel may substitute Penal Code § 832.3 training and the "Corrections Officer Basic Academy Supplemental Core Course" as specified in 15 CCR § 180.

1. Community Service Officers who have successfully completed the Corrections Officer Basic Course shall be scheduled on a yearly basis to complete at least twenty-four (24) hours of update training as required by Standards for Training Corrections Program.

2. Community Service Officers assigned to the Jail shall maintain a current "First Aid/CPR Certificate". The Jail Administrator shall maintain a master list of certified employees to ensure Standards for Training Corrections Program compliance.

(d) **Continuous Professional Training**. All facility/system managers, administrators, supervisors, and custody personnel shall complete the annual required training specified in 15 CCR § 184.

(e) **Number of Personnel**. In accordance with 15 CCR § 1027 there shall be sufficient personnel on duty at all times to provide for the safety and security of the facility and its prisoners and to ensure the implementation and operation of all programs and activities required by these regulations. Minimum staffing shall include at least one certified personnel on duty at all times.If one or more female inmates are in custody, there shall be at least one certified female personnel on duty at all times. These personnel shall not have any other duties which would conflict with the supervision and care of inmates in the event of an emergency. To determine if there is a sufficient number of personnel for a specific facility, the facility administrator shall prepare and retain a staffing plan indicating the personnel assigned in the facility and their duties. Such a staffing plan shall be reviewed by the Board staff at the time of their biennial inspection. The results of such a review and recommendations shall be reported to the local jurisdiction having fiscal responsibility for the facility.

(f) Safety checks shall be conducted at least hourly through direct visual observation of all inmates. There shall be no more than a 60-minute lapse between safety checks. There is a written plan that includes the documentation of routine safety checks.

900.8 JAIL KEY CONTROL / ACCOUNTABILITY

(a) Security is one of the most important aspects of jail operations. Key control and accountability are a primary part of security during the shift. The following procedures will be implemented to insure that the highest level of security is maintained during shift operations.

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(b) The oncoming Jail Supervisor or most senior Community Service Officer during the absence of a Jail Supervisor on the shift will collect all keys prior to releasing the outgoing shift. All sets of keys will be accounted for at this time. A jail log entry will be made indicating the fact that all keys are present and accounted for. Once the keys have been accounted for, the Jail Supervisor will issue each member of the shift one set of jail keys. Any remaining keys as a result of minimal staffing will be secured in the jail office and will remain there until assigned.

(c) At no time will Jail personnel relinquish control of their assigned keys to any person except the on duty Jail Supervisor. Should an officer or any other employee of the Police Department need access to a cell or to remove an prisoner, Jail personnel will open the cell door. There will be no exception to this rule. Once the officer is finished with the prisoner, Jail personnel will once again open the cell door to return the prisoner to the cell.

900.9 INCIDENT REPORTS

(a) Any incident occurring in the Hayward Jail which results in an assault, battery, or other criminal act against an employee, prisoner or other person shall be reported to the Jail Supervisor without unreasonable delay. The Jail Supervisor will contact the Jail Administrator and Other as soon as practical after the incident and complete the appropriate jail log entry.

(b) The on-duty Jail Supervisor shall ensure that an investigation is initiated by a police officer, who will prepare a written report, which shall include the date and time of the occurrence, the names of the persons involved including witnesses, a description of the incident and action taken. The written report is to be submitted to the patrol officer's Supervisor following established guidelines.

900.10 EMERGENCY PROCEDURES - SAFETY AND SECURITY

(a) SAFETY EQUIPMENT:

1. **Fire Extinguishers**. There are two dry chemical model fire extinguishers located in the Jail. They are both located in the Jail office and are attached to the wall.
2. When fire extinguishers are used, they will be replaced as appropriate. Fully charged extinguishers must be maintained in the Jail office at all times.
3. **First Aid Kit**. A currently stocked first aid kit will be kept in the Jail.

(b) FIRE PROCEDURES:

1. Pursuant to Penal Code Section 6030(c), whenever there is an inmate in custody, there shall be at least one person on duty at all times who meets the training standards established by the BSCC for general fire and life safety. The facility manager shall ensure that there is at least one person on dutytrained in fire and life safety procedures that relate specifically to the facility.

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Detention Facility

2. The following general procedures apply to a fire that is occurring at the Hayward Jail. The Jail is equipped with an alarm system and it is centrally wired to the Sergeant's office. In the event the alarm system is activated due to the presence of fire in the Jail, the following emergency procedures are to be put into effect immediately:

   (a) Communications Dispatcher:

      1. Notify the Hayward Fire Department.
      2. Route all available units to the Jail for possible prisoner evacuation.
      3. Immediately notify the Watch Commander.
      4. Establish communications with the Jail facility.

   (b) Jail Staff:

      1. Immediately determine the extent and location of the fire and/or smoke.
      2. For small fires, without smoke hazard, apply local fire suppression techniques using available fire extinguishers.
      3. For larger fires with smoke hazards, begin evacuation of all prisoners to the designated compound areas.

   (c) Prisoner Evacuation:

      1. Limited Endangered Areas - remove prisoners from damaged smoke contaminated cells to habitable cells.
      2. In any emergency requiring the removal of prisoners from the Jail; a Jail CSO must be mindful of the safety of all involved and the continuous security of prisoners. Prisoners shall be moved to an area free of smoke and one that will not interfere with firefighting efforts. Depending on the extent of the fire, prisoners may be moved from the east block area to the west cell block through the booking area. Should the fire originate in the west block, the procedure should be reversed with all movement being made into the east block. All necessary assistance should be summoned and the prisoners transferred to a secure area free of weapons.
      3. Should the fire/smoke be such that the entire Jail must be evacuated, all prisoners shall be moved through Door #1 into the sally port to the extreme southeast end of the police parking lot. The prisoner transportation vans shall be utilized to hold the prisoners. Prisoners are to be against the fenced area or in the transportation vans under close guard.
      4. In the event Jail personnel are unable to accomplish their evacuation mission, Fire Department personnel may be required to effect rescues via the sally port, Door #3 (Traffic Office) or Door #2 (YFSB).

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It will be the responsibility of the Watch Commander to provide adequate security during a Jail evacuation.

5. Should the Jail be damaged or the structural integrity of the cell blocks be in question, prisoners will be transported to the Alameda County Jail.

6. Should a critical incident occur in the Jail, prisoners may be moved to another area of the facility when it is safe to do so. Security and segregation must be maintained. This may include the use of the prisoner transportation vans or the Alameda County Marshall's holding facility at the Hayward Superior Court.

7. In the event of a county wide disaster and it becomes impractical to control prisoners after evacuation, the Chief of Police or designee will advise the prisoner(s) to self-surrender within forty-eight hours or a warrant of arrest will be obtained.

(c) FIRE PREVENTION PROCEDURES:

1. The sobering cell is coated with a polyurethane coating. This coating is fire retardant and meets the highest standards of the State Fire Marshall's Office. The toxic level of this material is considered safe should a fire break out.

2. All new Community Service Officers are to be thoroughly instructed in the use of all fire extinguishers in the Jail facility.

3. All Jail personnel are required to participate in evacuation and emergency drills at least every 6 calendar months. Such drills are to be conducted under the direct supervision of the Jail Supervisor and will be noted in the Jail log.

4. Standpipes, alarms and detection systems will be inspected by city personnel at least once semi-annually. Documentation of these inspections shall be kept in the Jail Administrator's office for review.

5. A visual evacuation plan shall be posted throughout the Jail.

6. No smoking is permitted in the Jail at any time.

7. No flammable materials are to be maintained in the facility at any time.

(d) SAFETY AND SECURITY:

1. No maintenance work is to be performed in the facility under any circumstances by an outside contractor or city personnel without a Jail CSO being present except during those periods when the Jail is closed for maintenance and/or repair. This will be authorized by the Jail Administrator and/or the Support Services Manager.

2. The Jail is a restricted area. No visitors, Attorney's, Bail Bonds Brokers or Reporters shall be permitted to enter the Jail, the adjacent hallways, sally port or booking areas at any time.

3. The Jail Supervisor shall be responsible for the overall security of the Jail. In the event that janitors, repairman or contractors are permitted access to the facility,

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the Jail Supervisor shall inspect the identification of the worker and authorize the approval prior to allowing entry. This shall be in addition to recording the names and time in the Jail Log. All tools and equipment shall be inspected and shall be inventoried upon entry and re-inventoried upon exiting. If at all possible, workers should not be allowed to perform any repairs or installations while prisoners are processed or in the presence of any prisoners. In the event that a worker must perform some tasks while prisoners are present or being processed, it shall only be done with the approval of the Jail Supervisor and/or Jail Administrator and shall be completed under the watchful supervision of Jail personnel. Additional personnel should be summoned as needed.

4. Whenever emergency assistance is requested in the Jail, the closest person to the panic button shall activate the button to summon assistance from outside the facility.

5. In the case of an escape the Jail staff shall immediately notify the Watch Commander and provide all pertinent information regarding the escaped prisoner. The jail shall be locked down and all intake / release activities shall be temporarily suspended. A complete physical search of all cells as well as interior jail areas shall be initiated once adequate personnel are present to ensure safe procedures. The Jail Administrator shall be notified of the escape and actions taken. As soon as practical, the communications center shall be provided a complete description of the escapee for MDC (silent) broadcast to all police units.

6. In the event of the taking of a hostage, either staff member or prisoner, the Watch Commander shall be immediately notified and provided all pertinent information regarding the hostage taker as well as the hostage. The jail shall be locked down and all intake / release activities shall be temporarily suspended. The Jail Administrator shall be immediately notified of the situation. Jail staff will provide assistance and support to responding units as directed by the Watch Commander or other designated supervisory personnel.

7. As the panic button is sounded, the communications operators shall closely monitor the viewing screens to determine the problem in the Jail and its location. Dispatch shall ask the Jail to advise. Sworn Officers and Community Service Officers shall respond to the alarm by proceeding as quickly and safely as possible to the Jail. The first Officers to arrive at the Jail entrance doors shall remain at that location and provide both security for the facility and take possession of all weapons prior to other Officers entry into the Jail. At all times the communications operators shall closely monitor the events on the closed circuit television screens after the alarm has been activated. The Communications Operators shall provide information to other personnel who might be responding and the current status of the event via the Police Department address system and/or radio as appropriate.

8. In the event of an actual disturbance or need of assistance, the Watch Commander shall be advised as soon as possible. All exterior doors to the Jail shall remain closed and secured unless entry or exit of personnel and prisoners is occurring. The sliding metal gate at the entrance to the jail from the sally port shall also remain closed and secured unless entry or exit is occurring. The sliding

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metal gate shall not be opened until the Jail CSO is ready to receive the Officer and prisoner.

9. The Jail Supervisor shall ensure that a complete security inspection is conducted of the Jail facility each month. This inspection shall include fire detection/ suppression equipment, proper functioning of all emergency equipment, and inspection of the first aid kit. The inspection shall be noted in the jail log and forwarded to the Jail Administrator.

10. The only weapons and security devices that are approved for use in the Jail are, approved electronic weaponry, Oleoresin Capsicum (O.C.) aerosol spray, handcuffs, shackles, waist chains and leg restraints.

11. Personal safety of police personnel is of first importance and at no time shall carelessness or the taking of undue risk be condoned. When dealing with prisoners, one should constantly bear in mind the fact that they are prisoners and take every reasonable precaution to safeguard themselves, other members of the department and the prisoners. For police purpose, every prisoner is a dangerous person.

12. All personnel shall exercise extreme caution in conversing with prisoners and such conversations shall be held to a minimum. Under no conditions shall the aspects of any criminal case be discussed with, or in the presence of, a prisoner, whether the case in question affects that person or not. All conversations with prisoners shall be curtailed to that minimum that is necessary for efficient Jail administration.

13. The Jail is a restricted area within the police building. Only those employees assigned to the Jail or those who have immediate business within the facility shall be allowed access. At no time will civilian visitors, including ride-alongs be permitted access to the Jail. Ride-alongs/visitors may be permitted on a case by case basis with prior approval of a Supervisor and/or Watch Commander. Ride-alongs/visitors will be instructed not to talk with the prisoners, the location and purpose of the alarm buttons and what to do in the event of an assault or emergency. The visitor will not be allowed to view prisoners within a housing unit at any time. If at all possible, the visitor will be restricted to the Jail booking area.

14. All persons not employees of the Hayward who are permitted access to the Jail by the Jail Supervisor, Jail Administrator and/or Watch Commander shall be properly identified; be questioned regarding possession of any prohibited items to include pat searching at the discretion of the admitting supervisor.

900.11 SANITATION, SAFETY AND MAINTENANCE

The Jail Supervisor is responsible for ensuring that the Detention Facility is kept at an acceptable level of cleanliness. Janitorial services are provided for this purpose. The janitors on duty shall be provided a detailed list of the daily cleaning requirements. In the event that janitorial services are unavailable, the Jail Supervisor and Jail Community Service Officers are responsible for minimum acceptable levels of cleanliness.

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Detention Facility

The Jail Supervisor is responsible for conducting an inspection of the facility at the commencement of the assigned shift to insure that there are no conditions that exist which might cause injury to the staff or prisoners. Conditions noted requiring attention shall be reported to the Jail Administrator, noted in the daily log, and action initiated by the Jail Supervisor commensurate with the seriousness of the deficiency.

900.12 PRISONER RECEIVING

The following procedures are recommended for receiving prisoners into the Hayward Police Department Jail facility. It is understood that modifications to this specific order of action may be necessary due to individual prisoner requirements. Any modification to this order of action shall be with the approval of the Jail Supervisor with a focus on maintaining safety and security at all times.

(a) The entrance to the Jail will not be opened for a prisoner until it is authorized by the Jail CSO.

(b) A prisoner will not be removed from the transporting vehicle until the sally port gate is closed.

(c) The CSO will instruct the transporting officer as to the sequence of processing.

(d) The transporting officer shall assist the Jail CSO in complying with all Jail regulations by following all lawful directions given by the CSO.

(e) The transporting officer shall secure his/her weapon in the gun locker prior to removing the prisoner from the transportation vehicle or entering the Jail.

(f) The transporting officer shall conduct a weapon/contraband search prior to bringing the prisoner into the Jail.

(g) The chain of responsibility for any property that is not considered evidence, and has been removed from a prisoner prior to transport, shall be from the arresting/ transporting officer.

(h) After searching and removing any weapon/contraband, the prisoner will be escorted to the booking counter or placed within any of the holding cells as directed by the Jail CSO.

(i) When the arresting/transporting officer enters the Jail, he/she will ensure that his/her arrestee remains handcuffed until an authorized search can be completed.

(j) It shall be the arresting/transporting officer responsibility to furnish the Jail CSO with all necessary documents for the arrest, as well as pertinent booking information.

(k) If any prisoner is combative as he/she is being moved into the Jail, he/she will be placed in a holding cell and restrained as appropriate prior to any booking process. Female prisoners shall be processed in the same manner as male prisoners. Prisoners shall not be held in the holding cell with members of the opposite sex. The Jail CSO

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shall conduct both a physical and electronic metal detector search of each prisoner accepted into the Jail. This search shall take place upon entry into the Jail.

900.12.1 ADMISSION REFUSAL

(a) The initial authority to refuse admission to the Jail remains with the on duty Jail Supervisor.

(b) The Hayward City Jail shall not accept for confinement any person who is manifestly sick or injured without certification of medical clearance, which clearly states that the subject is cleared for incarceration with no restrictions and has the substantiating paperwork as well as the properly completed HPD pre-booking medical clearance form.

(c) When a prisoner has been delivered to the Jail in a sick or injured condition and the arresting officer advises that such person has refused medical attention, the Jail Supervisor shall advise the transporting officer that the prisoner cannot be accepted into this facility and will have to be transported to Santa Rita jail for direct booking in accordance with that facility's standard protocols. If Santa Rita Jail requires medical clearance prior to acceptance, the prisoner must be transported to the appropriate hospital for that clearance.

(d) The Jail Supervisor may also refuse admittance to those classes of persons who are listed below. Normally, these persons should be confined at Alameda County Jail (Santa Rita Facility), where their particular needs are more appropriately accommodated.

1. Developmentally Disabled prisoners: Persons who are disabled through either mental retardation, cerebral palsy, epilepsy, autism, or a combination of these handicaps.

2. Mentally disordered persons of known diminished mental capacity who are a danger to themselves or others and those who express, through words or actions an intent to take their own life while in custody.

(e) The prisoner should not be accepted if the legal instrument directing incarceration appears insufficient. For example, it is discovered that a warrant has been recalled, the person does not match the description of the subject on the warrant, if fingerprint checks reveal the person is not the subject on the warrant, etc.

(f) Recommendations of the physician must be followed in all cases. No person shall be held in Jail against the advice of a physician. If custody must be maintained, suitable arrangements for providing guard service shall be initiated by the Watch Commander.

(g) A prisoner who is combative by nature and who cannot be safely isolated in the Jail facility shall be transferred to the Alameda County Jail (Santa Rita Facility), to await the court process.

(h) Under no circumstances will an incoherent prisoner be accepted by the Jail CSO. Any prisoner so intoxicated that he/she cannot maintain consciousness, shall be provided immediate medical care as appropriate. The Watch Commander and Jail Supervisor shall determine the appropriate disposition in cases where the prisoner requires hospitalization while in custody.

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900.12.2 OUTSIDE AGENCY BOOKINGS

The Hayward maintains booking contracts with the following agencies:

- BART Police Department
- CSU East Bay Police Department
- Alameda County Narcotics Task Force (ACNTF)

All other agencies requesting to book a prisoner into the HPD jail require prior approval of the Watch Commander or the Jail Administrator.

Regardless of contract, any outside agency granted permission to book a prisoner at the HPD jail assumes all responsibility for medical needs, transportation, or other requirements of the prisoner beyond normal custody maintenance items.

Temporary courtesy detentions absent formal booking may be authorized by the Watch Commander or Jail Administrator on an emergency basis. Documentation of such will be noted in the daily jail log.

900.12.3 BOOKING DOCUMENTATION

Required booking documentation shall conform to current Alameda County arrest and booking protocols and shall minimally include the following:

- HPD Arrest Information Form completed by the transporting officer.
- Alameda County Consolidated Arrest Report (ACCAR).
- Medical and Classification Questionnaire.
- Disposition Packet completed by jail personnel.
- Other forms as necessary (849(b) form, Out of County Notification form, etc.)
- Medical Clearance forms as appropriate.
- Probation, Parole holds or Warrant abstracts as appropriate.

Additional guidelines can be found in the Person File Number (PFN) and Criminal Fingerprint Submission procedure.

900.12.4 CITATION BOOKING

For the purpose of CORPUS citation bookings, the Jail CSO will ensure the time and date of court appearances are included on the citation. This information shall be used to complete the booking in CORPUS. In the event of a field citation, the jail shall be provided with the pertinent warrant and citation information for system update.

900.12.5 BOND SURRENDERS (REFERENCE SECTIONS 1300, 1301 OF THE PENAL CODE)

When a bail bonds person or the depositor surrenders a defendant for the purpose of exoneration of bail, the Jail CSO will accept the defendant into custody in the following manner:

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(a) The Jail CSO will obtain the receipt of a certified copy of the "Certificate of Deposit of Bail" and will attach it to the booking packet.

(b) The Jail CSO will sign a certificate in writing acknowledging the surrender. This certificate will be provided by the bail bonds person or the depositor.

THE DEFENDANT WILL BE SURRENDERED ONLY TO THE CUSTODY OF THE JAIL FACILITY TO WHICH HE/SHE WAS IN CUSTODY AT THE TIME BAIL WAS POSTED. Once the defendant is admitted to the Jail, he/she will be processed and booked in accordance with existing CORPUS procedures governing bond surrenders. Normally, the CEN number is reactivated with ABSUR@ in the "Held" field.

900.13 PRISONER PROPERTY

The Hayward Police Department complies with mandates from the Corrections Standard Authority and has established the following criteria for handling prisoner property:

(a) Once the search for weapons/contraband has been completed, all of the arrestee's property will be taken and itemized on the Hayward Police Department Prisoner Property Receipt.

(b) The inventory of a prisoner's property shall be performed by no less than two Community Service Officers (CSO) or Police Officers.

(c) Each prisoner will have all personal property including his/her belt removed prior to being placed in any cell. All currency shall be separately inventoried by no less than two department employees and sealed in the appropriate currency envelope. Documentation on the face of the envelope shall be completed in its entirety. Small items such as jewelry, earrings, special coins, etc., shall be placed in separate sealed containers and then placed in a prisoner property bag. Keys, bank cards, credit cards, etc., shall be sealed in a plastic bag and placed into the prisoner property bag.

(d) All prisoners' property shall be listed on the property receipt and placed in a property box. The box shall then be placed in a numbered locker and that locker number recorded on the ACCAR (Alameda County Consolidated Arrest Report).

(e) Prisoner property will not be left on the booking counter or unattended at any time.

(f) Shoes shall be removed from all prisoners and slippers will then be issued.

900.13.1 UNCOOPERATIVE OR INCAPACITATED PRISONERS

If the arrestee is too violent, uncooperative or incapacitated, all property removed from him/her shall be placed in a sealed plastic bag, placed in a property box and locked in a locker until it can be inventoried. In these cases, two Community Service Officers or Police Officers are to be present when it is later removed from the locker and inventoried.

The prisoner will not receive his copy of the property receipt until the listing is complete and signed by the prisoner. If the prisoner refuses to sign, the Jail CSO shall note on the space provided "REFUSED".

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900.13.2 WITHDRAWAL/ADDING OF PROPERTY

Money will not be accepted for inclusion in any prisoner's property other than funds in possession at the time of initial booking at HPD jail. The Hayward Police Department does not maintain prisoner fund accounts.

At the prisoner's request, an even exchange of clothing will be accepted. No accessories will be allowed. Any clothing accepted will first be searched for contraband before being given to a prisoner. The prisoner will at that time change into these clothes and the soiled clothing will be given to friends/relatives who brought the exchange clothing to the Police Department.

Items of evidence that are taken from the prisoner will be listed on the property receipt with the notation that they were retained for evidence. A copy of the Hayward Police Department Property/ Evidence Form shall be placed in the prisoner's personal property locker, indicating items that have been seized.

900.13.3 MISCELLANEOUS ISSUES

Perishable foods in either opened or sealed packages create serious concerns of potential infestations of insects and/or rodents in the institutional setting. To avoid contributing to the development and spread of such infestations, Jail Community Service Officers will not accept such property in the jail facility as part of the prisoner's property.

Community Service Officers will dispose of all perishable food items which are part of a prisoner's personal property, unless the person is eligible for early release upon a Written Promise to Appear, i.e. the arrestee will not be held in this or any other institution pending arraignment, trial or transfer. Arresting/Transporting Officers shall not place any of the below listed items in the jail even though the items were in possession of the arrested person. These items are prohibited and considered contraband. The items may be secured by placement in the Property Unit as safekeeping in accordance with established protocols.

The prisoner will be given a copy of the Hayward Police Department Property/Evidence Form and advised that he/she must claim the property as soon as possible, however, in no event, later than 60 days. After that time the property will be disposed of in accordance with the law:

- Firearms
- Ammunition
- Knives over 4-inches in length
- Chemical Agents
- Alcoholic Beverages (these will be disposed of)
- Syringes (unless medically prescribed)
- Starter Pistols
- Flare Guns/Pens
- Controlled Substances in any form without prescription.

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- Items deemed too large to be accommodated by custodial staff

The Arresting/Transporting Officer shall assume responsibility for appropriate disposition of all property not accepted by jail staff.

900.13.4 PRISONER MAIL PROCEDURES

The purpose of this section is to comply with requirements outlined in 15 CCR § 1063, which requires that the facility manager outline procedures for the handling of prisoner mail. In a Type I facility such as the Hayward City Jail, these procedures are intended to apply in the event an prisoner receives mail. For clarification, as a matter of policy the Hayward City Jail does not house sentenced prisoners of any type. The following regulations shall be adhered to regarding prisoner mail:

(a) There is no limitation on the volume of mail that an prisoner may send or receive.

(b) Prisoner mail may be read when there is a valid security reason and the Jail Administrator has given approval.

(c) Prisoners may correspond, confidentially, with state and federal courts, any members of the State Bar or holder of public office, and the Corrections Standards Authority; however, jail authorities may open and inspect such mail only to search for contraband, cash, checks, or money orders and in the presence of the prisoner.

(d) Prisoners may correspond, confidentially, with the facility manager or the facility administrator.

(e) Those prisoners who are without funds shall be permitted at least two postage paid letters each week to permit correspondence with family members and friends but without limitation on the number of postage paid letters to his or her attorney and to the courts.

In order to maintain compliance with the law regarding confidentiality and handling of legal mail, all prisoner mail shall be routed through the Jail Administrator for handling and disposition. This routing shall occur without unnecessary delay, and the Jail Supervisor shall make notation in the jail log as to the disposition of prisoner mail.

900.14 DETENTION FACILITY - PRISONER SEARCHES

The Community Service Officers (CSO) assigned to the Jail shall conduct both a physical search, as well as a metal detector search upon the arrestee's entry into the jail. These searches shall take place within view of the closed circuit camera system and in the presence of at least one other CSO or Police Officer.

If contraband is found it will be placed in a plastic bag and marked with the date, time and signature of the Jail CSO who found the evidence. The arrestee's name and PFN shall also be placed on the outside of the bag.

A standard search includes the removal of outer garments such as overcoats, jackets, sweaters, vests, hats, wigs, ties, belts, shoes, socks, handbags and wallets. All pockets shall be emptied,

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hair examined, and all clothing not removed will be examined by sliding the hands across the body to detect articles that may be secreted underneath or sewn into the clothing.

If possible, searches of arrestees should be conducted by a person of the same sex. Upon approval of a Supervisor, searches may be conducted on persons of the opposite sex. The Supervisor will ensure that an employee of the same sex is present during the search.

Briefcases, backpacks, bundles, suitcases, and other large containers shall not be accepted as a component of prisoner property. Such items are the responsibility of the transporting officer and shall be processed for safekeeping following established protocols and a receipt of the property shall be given to the prisoner. As a guideline, any property requiring storage exceeding an amount equal to one standard size grocery bag cannot be accepted as prisoner property and subsequently stored for safekeeping.

The Jail CSO shall conduct a standard search each time the arrestee is returned from a visit outside the jail.

900.14.1 STRIP SEARCHES

(a) No person arrested and held in custody on a misdemeanor or infraction offense, except those involving weapons, possession of controlled substances or violence, shall be subjected to a strip search or visual body cavity search prior to placement in the general jail population unless an officer has determined that there is reasonable suspicion based upon specific and articulable facts to believe such person is concealing a weapon or contraband which would be discovered by such a search (Penal Code § 4030(f)).

(b) No strip search or visual body cavity search shall be conducted without prior written authorization from a supervisor. The time, date, and place of the search, the name and sex of the person conducting the search and a statement of the results of the search shall be recorded in the arrest record. A copy of the written authorization and recorded information shall be retained and made available to the arrestee or other authorized representative upon request.

(c) All strip and visual body cavity searches shall be conducted under sanitary conditions and in an area of privacy so that the search cannot be observed by persons not participating in the search (Penal Code § 4030(m)).

(d) Unless conducted by a physician or other licensed medical personnel, the officer(s) conducting the strip search or visual body cavity search shall be of the same sex as the person being searched (Penal Code § 4030(l)).

(e) Whenever possible, a second officer of the same sex should also be present during the search, for security and as a witness to the finding of evidence. In the event a same sex officer is not available, a second officer must stand by in close proximity in case of an emergency.

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(f) The officer conducting a strip search or visual body cavity search shall not touch the breasts, buttocks or genitalia of the person being searched (Penal Code § 4030(j)).

(g) Strip searches shall be noted in the Jail Log, to include the name of the arrestee and the names of the CSO or Officers conducting the search.

(h) No employee should view an arrestee's private underclothing, buttocks, genitalia or female breasts while that person is showering or changing clothes unless the arrestee otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the arrestee with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the arrestee's consent and/or otherwise protect the arrestee's privacy and dignity.

(i) Nothing in this policy section shall prohibit the otherwise lawful collection of trace evidence from an arrestee in accordance with the provisions of (d) through (f) above and based on a valid exigency, consent or a search warrant.

(j) All strip searches shall be thoroughly documented in the corresponding police report.

900.14.2 PHYSICAL BODY CAVITY SEARCH

(a) No person arrested on a misdemeanor or infraction shall be subjected to a body cavity search without a search warrant (Penal Code § 4030(h)).

(b) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse, or Level II Emergency Medical Technician (EMT) may conduct a physical body cavity search (Penal Code § 4030(k)).

(c) Except for the above mentioned licensed medical personnel, persons present must be of the same sex as the person being searched. Privacy requirements, including restricted touching of body parts, are the same as the strip search standard.

(d) All physical body cavity searches shall be thoroughly documented in the corresponding police report. A copy of the search warrant and the results of any body cavity search shall be included with the related reports and made available, upon request, to the arrestee or authorized representative (Penal Code § 4030(i)).

900.14.3 SEARCHING OF CELLS

A search will be conducted of the cell areas and those arrestees housed within, when there is reasonable belief that one of the inhabitants of the cell has acquired a weapon or contraband.

A complete cell search of each cell within the Jail Facility shall be conducted at any time that it is deemed necessary. To assist in viewing difficult to visualize areas, a hand held mirror (attached to an extended handle) shall be used. This device is located in the jail office and its use shall be noted on the jail facility log.

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900.15 CLASSIFICATION AND SEGREGATION PROCEDURES

Classification in a detention facility essentially takes two forms; those separations which are required by law; and those which are implemented for managerial purposes. The Hayward's classification system has been tailored to meet the distinct needs of our facility. The purpose of a detention facility is to maintain order, to ensure the safety of prisoners and staff, and to provide adequate security. Relying solely on the legally mandated separations is insufficient and can lead to violence and a reduced level of safety in the Jail. Classification must go beyond the legal mandates to meet specific facility capabilities and needs. When a classification system exceeds the minimum set by law violence, staff/prisoner confrontations, and subsequent lawsuits are reduced and there is a concurrent increase in security.

The Haywards classification system separates the sophisticated from the uninitiated, the violent from the nonviolent, the passive from the aggressive. This system assists in identifying security risks, the physically and mentally ill, those requiring protective custody, those who may become potential victims to assertive and assaultive prisoners.

Male and Female prisoners must be separated from each other except when they are participating in certain programs and activities. Pursuant to Penal Code § 4002, they must not sleep, dress, undress, bathe, or perform eliminatory functions in the same room with each other. Essentially the law requires separation except during periods of recreation, education, work assignments, arts and crafts, library time or similar activities.

Sentenced prisoners are to be separated from Unsentenced, and Civil Commitments must be separated from Criminal Commitments. Penal Code § 4001 is quite specific that these groups are not to mingle or be housed in the same rooms with each other. There is no requirement that one group; i.e., Civil Commitments, be granted more privileges than any other group.

Juveniles must be separated from adults by sight and sound. Juveniles must not be able to see, speak or otherwise be in contact with adult prisoners. (Welfare and Institution Code § 208, CCR § 4501 and CCR § 4516).

900.15.1 CLASSIFICATION PROCEDURES

To aid in the determination of proper housing for an arrestee, the Community Service Officer will complete the Prisoner Classification Section of the Medical Screening Form for each arrestee who is to be housed in the Hayward City Jail.

Officers booking prisoners into the Jail shall initially advise the Jail CSO of the criminal charges using the complete PC and VC sections, including all subsections against the prisoner. The Officer shall provide the Jail CSO with any specific information as to the prisoners suspected gang/group affiliation, sexual orientation, flight risk, or known medical problems. Officers are responsible for providing the Jail CSO with any and all information that will benefit the health, welfare, and security of the prisoners, the employees and the facility.

Prisoners who are high risk, indicate alternative lifestyle preferences, are suicidal, or prisoners who are suspected or known to have gang/group affiliations and those who present an escape risk shall be, if available, housed separately. Because of the limited housing units within the Jail,

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the Jail CSO may place same sex prisoners in the same housing unit classification criterion. Absent appropriate housing, the prisoner shall be transported to Santa Rita jail for direct booking. The Jail Supervisor, during each shift, shall inspect the booking packets, including the medical screening/classification form to ensure that prisoners are properly housed in accordance with the classification plan.

The Jail CSO shall consult with the Jail Supervisor to determine housing unit assignments after completing the ACCAR, inventory of the prisoners' property and medical screening/classification form. Considerations shall be made to house felony prisoners, misdemeanor prisoners and traffic offenders separately whenever possible.

Females are to be housed separately from males at all times.

When the prisoner appears to be a danger to himself/herself and/or others, or is gravely disabled due to illness, intoxication or mental disorder, the Other shall be notified and the Jail Supervisor will arrange transport for evaluation by mental health professionals, pursuant to Welfare and Institution Code § 5150.

900.15.2 ADMINISTRATIVE SEGREGATION

The Hayward City Jail shall provide for the administrative segregation of prisoners who demonstrate that they may attempt to escape, assault other prisoners, or demonstrate a propensity towards violence. An appropriate cell shall be used for this type of segregation (single cell or holding cell). Any administrative segregation of a prisoner must be entered on the Jail log and the Watch Commander shall be advised as soon as possible.

Segregated prisoners will be allowed the same rights as others. They will not be denied meals, bedding, or sanitation facilities while in segregation. If a prisoner is placed in a holding cell, he/she will be asked every half hour during the Jail check if he/she desires to use the bathroom facilities or needs access to the telephone or drinking water. A Prisoner Safety Check Log shall be taped to the door of the holding cell where a prisoner is being housed to record each time a cell check is done, when the prisoner uses the bathroom facilities, is given water, or uses the telephone. As soon as possible, the prisoner will be moved from the holding cell to one of the single cell housing units.

When reasons for administrative segregation cease to exist, the prisoner may be returned to the general population with the approval of the Jail Supervisor (most senior CSO when a Jail Supervisor is not on duty) and/or Watch Commander.

900.15.3 SOBERING CELL

The sobering cell shall be used for the housing of inmates who present a threat to their own safety or the safety of others due to their state of intoxication. Such persons shall be removed from the sobering cell as soon as their condition allows for continued processing.

The following guidelines apply when placing any inmate in a sobering cell (15 CCR § 1056):

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(a) Placement of an inmate into the cell requires approval of the Jail Supervisor or most senior CSO.

(b) Notations in the Jail Log will be made every time an inmate is placed in the cell and will minimally include the time of placement in the sobering cell, the initiation of a sobering log and the behaviors that prevent housing in a regular cell. This jail log entry should be made by the on-duty supervisor or note the notification of a supervisor. The Jail Log will also document when the inmate is moved out of the cell.

(c) Under no circumstances shall an inmate be held in a sobering cell for more than six hours without being evaluated by qualified medical personnel or an the on-duty Jail Supervisor to ensure that the inmate does not have an urgent medical issue. Any inmate who can't be moved out of a sobering cell 12 hours from the time of placement shall be taken for medical clearance (15 CCR § 1056).

(d) Inmates will be removed from the cell when they no longer pose a threat to their own safety and the safety of others and are able to continue processing.

A safety check consisting of direct visual observation sufficient to assess the inmate's well-being and behavior shall occur at least once every 30 minutes. Each safety check shall be documented in the Jail Log including the names of those persons held for intoxication. The Jail Supervisor shall check the Log for completeness every two hours and document this action on the Jail Log. The safety check shall include

(a) Observation of breathing and determination that the breathing is regular and not erratic or difficult.

Increasing difficulty to arouse, irregular breathing or convulsions, shall be considered amedical emergency. In such an event, the paramedics will be called, and the inmate shall be transferred to the closest emergency hospital as soon as possible.

No person shall be released from custody until his/her sobriety is determined by the Jail Supervisor and the person can reasonably care for themselves. There are no prescribed time limits during which a person will reach a state of sobriety. Any inmate showing signs of withdrawal shall immediately be sent for medical attention (15 CCR § 1213).

900.16 PRISONER HANDLING AND CONDUCT

(a) On-View Arrests:

1. Prisoners arrested for charges that are listed as felonies will be afforded the ability to provide bail as acceptable to the court of jurisdiction and will be booked in accordance with current Alameda County booking procedures. Prisoners arrested for charges that are listed as misdemeanors will be afforded the ability to be released after booking on a citation provided that the prisoner meets the courts requirements.

(b) Warrant Arrests:

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1. Criminal warrant arrests shall be processed as an on-view felony arrest as listed above under on-view arrests.

(c) Warrant Arrests "' Traffic:

1. Whenever any person is taken into custody for bail to be collected on two or fewer outstanding parking or infraction warrants in accordance with California Vehicle Code § 40304.5, the Jail CSO shall process the prisoners as follows:

   (a) The prisoner shall be given the opportunity to immediately post bail.

   (b) The prisoner shall not be booked, photographed, fingerprinted and no arrest record shall be initiated until the following has been exhausted:

      1. If the prisoner has sufficient cash, he/she shall be given the opportunity to post bail.

      2. If the prisoner is unable to post bail he/she shall be given the opportunity to make (3) completed local or long distance (within the 9 bay area counties) calls at our expense to obtain bail.

   (c) The prisoner shall be given not less than (3) hours in which to arrange bail.

   (d) All prisoners detained for violations that are covered by California Vehicle Code § 40304.5 shall be detained in a separate area, away from the general jail population, until the expiration of the (3) hour limit.

   (e) Upon entry into the jail facility, the Jail CSO shall complete a detention only pre-booking sheet and inventory of the prisoner's personal property, as listed in this policy. Contraband and illegal weapons shall be processed as evidence and criminal complaints will be sought where applicable. Under no circumstances shall contraband or illegal weapons be returned to a prisoner.

   (f) A prisoner unable to raise the required bail may waive his/her three hour waiting period and be admitted for booking. The detention form waiving this time period shall be signed by the prisoner.

900.16.1 FUGITIVE ARRESTS

When a prisoner is booked into the jail on an out-of-state felony warrant (information via National Crime Information Center (NCIC) or telecommunications message), the Jail CSO will ensure the warrant is confirmed and the confirming agency provides the following information:

- Charges
- Warrant Number
- Bail Amount
- County of Issue

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- Date of Offense or (on/or about)
- State(s) that Agency will Extradite

The Jail CSO shall request that a telecommunications message from the confirming agency be sent to both the HPD jail and Alameda County Sheriff's Department (ORI #CA0010000), with the above information.

The prisoner shall be booked under Penal Code § 1551.1 and held under the no bail clause (*even if the telecommunications message from the other state indicates a bail amount, the prisoner is held under Penal Code § 1551.1 and NO BAIL is listed under the bail amount).

The prisoner shall be booked for Hayward Superior Court. Do not set a court date. The prisoner shall be booked as "ENROUTE (CBAE)" (Corpus Booking Add Enroute). When transported to court or the Alameda County Jail, an AAID message shall be sent to BOOA terminal advising the extradition deputy. The deputy will then file the fugitive complaint with the court.

900.16.2 PRISONER CONDUCT

It will be responsibility of the Jail CSO to inform the prisoner of his/her responsibility as it relates to conduct while in custody. Each prisoner will be made aware of the prohibited conduct and associated penalties both orally and by posting a copy of rules in each housing cell.

This facility maintains a “zero tolerance” policy toward sexual abuse and sexual harassment. All assigned personal receive regular state mandated harassment training at least every two years as required by law. This department maintains a “zero tolerance” policy to detect, prevent and respond to retaliation against any staff member or inmate after reporting abuse.

Any inmate may contact any member of the Jail staff or request to speak with a supervisor to privately report sexual abuse or harassment by another inmate, or a member of staff at any time without fear of retaliation.

Upon release from custody, any inmate, member of their family, or any other interested third party may report incidents of sexual abuse or sexual harassment through the departmental internal affairs reporting process, available to all members of the public or staff.

Any incident reported under these guidelines shall contain information necessary to fulfill the reporting requirements of 34 U.S.C. section 30303(a)(1).

900.16.3 HOUSING UNIT RULES FOR PRISONERS

Upon entering the facility all prisoners are subject to a search. Prisoners are subject to further searches as circumstances dictate. Criminal acts committed or attempted while in custody, will be prosecuted. Prisoners must obey verbal orders and instructions given by the Jail CSO at all times. Prisoners shall not molest, harass, threaten, abuse, do anything harmful to another prisoner or engage in "horseplay". Prisoners shall not alter, deface, destroy, or damage city property. They are not to use indecent language or make excessive noise. Smoking is not allowed.

Prisoners shall be supervised at all times by a Jail CSO or a Police Officer. In no event shall any supervision be delegated to any other prisoner.

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Detention Facility

900.16.4 RESTRAINTS FOR PRISONERS

Any use of restraining devices on a prisoner who has been placed alone in a housing unit, shall be done with the approval of the Jail Supervisor and/or Jail Administrator. The Watch Commander shall be notified as soon as practical when a prisoner is placed in a restraining device in the jail. It shall be recorded in the jail log and the entry will include the name of the approving supervisor, time initiated and time restraining device is removed.

No female arrestee who is in labor shall be handcuffed or restrained by the wrists, ankles or both unless it is reasonably necessary for the safety of the arrestee, officers or others (Penal Code § 6030).

When a prisoner is restrained by use of a restraining device, he/she shall be placed in the housing unit alone. Visual observation will be conducted at least twice every 30 minutes checking on the tightness of the restraints. If the prisoner requests to use the restroom or requests to have a drink of water, he/she shall be taken to the restroom and/or given a cup of water.

The Jail Supervisor shall review the situation at least every two (2) hours. If the use of restraints is still required after a two hour period, the Jail Supervisor and/or Jail Administrator shall make a determination whether the need for restraint still exists. If the restraints are still required, then the prisoner shall be transferred to the Alameda County Jail.

The only authorized restraining devices allowed within the jail facility are; waist chains, handcuffs, leg restraints, or any combination therein as approved by the Jail Supervisor, Jail Administrator or Watch Commander. The "WRAP" is not an approved restraint devise for use in the Jail. Prisoners transported to the Jail in the "WRAP" shall have the restraint device removed upon entry to the Jail. If the demeanor of the prisoner dictates that it would be unsafe to remove him/her from the device, the Jail Supervisor or Watch Commander shall be notified immediately, and arrangements shall be made for immediate transport to the Alameda County Jail.

Jail staff can assist a police officer in the application of the WRAP in cases where it is necessary to transport a prisoner from the jail in the WRAP. All jail staff shall be trained annually in the use of the WRAP by a certified HPD defensive tactics instructor.

For handcuffing procedures, refer to the Handcuffing and Restraints Policy.

900.16.5 HOUSING UNITS AND CELLS

Under no circumstances shall a Jail CSO or a Police Officer who is alone, enter an occupied housing unit or cell to quell a disturbance or investigate any unusual circumstances.

The Jail CSO shall not allow civilian custodians' access to any occupied housing unit or cell, either male or female. If it is absolutely necessary for a custodian to enter an occupied housing unit, it shall be allowed if authorized by the Jail Supervisor, Jail Administrator or Other. It shall be done in the presence of no less than two Jail CSO's and shall be completed as expeditiously as possible.

At intake and prior to housing, and as a matter of health and comfort, prisoners may be issued a disposable suit to replace missing items of clothing (e.g., shirt, pants, or to replace extremely soiled clothing or items of clothing that may be contaminated or considered a bio-hazard). Additionally,

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disposable slippers should be offered during the personal property inventory. Since clothing and undergarments are not issued for wear while housed in our facility, it is appropriate for a clothing exchange to take place, in accordance with current protocol. Prisoners who wear eye glasses may have them. Prisoners in an intoxicated condition shall not be permitted to wear or have eye glasses in their possession.

Heavily soiled and/or vermin infested prisoners clothing shall be removed from the jail and placed into the biohazard container located in the sally port.

Prisoners shall not be permitted to have extra clothing in their cell. Extra clothing shall be kept with the prisoners' property. When clothing is brought to the front counter for a prisoner, the person bringing the clothing shall be advised to wait for the soiled clothing from the prisoner. The clothing shall be checked for contraband before clothing is taken to the jail. The Jail CSO will have the prisoner removed from their cell, taken to a cell where he/she will be alone and allowed to change their clothing. The soiled clothing will then be taken to the front counter and given to person who brought the clean clothing. The description of the clothing given to the prisoner shall be logged in the jail log as well as on the Alameda County Consolidated Arrest Report (ACCAR).

Books, periodicals, magazines and newspaper may be permitted as issued by jail staff.

900.16.6 PRISONER MOVEMENT

When a prisoner is being moved out of the cell, there will be two escorting Jail CSO's or Police Officers present at all times. Officer safety and jail security shall be the major concern in the jail setting.

900.16.7 RECREATIONAL ITEMS

There shall be a daily newspaper provided to prisoners who request reading material. Television viewing for prisoners in custody awaiting transport to court or Alameda County Jail will be provided by moving the prisoners to the large holding cell. Television viewing will be provided as possible in conjunction with intake processing, safety and security.

900.16.8 PRISONER MEALS

Prisoners who state they are on special diets prescribed by a physician will be transported to the Santa Rita Jail where their needs can be accommodated. Special diets that require intravenous or other specialized medical application will not be administered in the jail. In these events, the prisoner, if he/she must remain in custody, will be transported to a hospital.

All meals served in the facility shall be noted in the jail log. Feeding will be conducted three times a day when prisoners are in custody. No more than 14 hours may transpire between the evening meal and breakfast. In no event will regularly scheduled meals be withheld as discipline. All meals will be served under the supervision of the Jail CSO's. All plastic spoons, food and beverage containers will be accounted for and removed after each meal.

A prisoner count shall be conducted to determine the number of required meals. Prisoners refusing a meal shall be noted on the jail log. The Jail CSO shall wear gloves in preparation of the

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meals. Frozen meals shall be prepared according to manufacturer's specifications, and comply with minimum dietary requirements as specified by law. The Jail Supervisor shall ensure that the kitchen and all related equipment and supplies remain clean and secured when not in use. Eating utensils, condiments and storage containers shall be clean and closed at all times.

Upon request, prisoners may be provided an extra dinner meal or sandwich, juice and/or milk, and some type of fruit to supplement regularly scheduled meals. It shall be the Jail Supervisors responsibility to note this on the jail log.

The Hayward maintains an emergency feeding plan, which requires that one week worth of food and water be made available to all employees and prisoners if needed. Should an emergency occur requiring the plan to be activated, the Jail Administrator or his/her designee will supervise this process. The water is maintained in the confines of the Department adjacent to the emergency generator. The food is maintained on the third floor storage area and readily assessable when needed. The existing stock is rotated pursuant to expiration dates noted on the individual packaging.

900.16.9 PRISONER WELFARE FUND

The Prisoner Welfare Fund has been established with the City of Hayward. Penal Code § 4025 requires that money from the fund shall be expended solely for the benefit, education and welfare of the prisoners. The fund may be used to purchase magazines, newspapers, books, games, payment of Cable TV charges, or the purchase/ repair of televisions. Twice a year this fund will be audited by the Jail Administrator. Deposits and expenditures from this fund shall be posted in the Jail.

900.16.10 PERSONAL CARE ITEMS

Common personal care items, such as toothbrushes and combs, shall be given to prisoners at their request and retrieved prior to the end of each shift. Soap shall be provided at the time prisoners are given the opportunity to shower. Prisoners held over 24 hours shall be issued a shaving instrument upon request.

Upon request, all female prisoners are allowed to use of materials for personal hygiene regarding their menstrual cycle. An adequate supply of feminine napkins will be kept in the jail at all times.

900.16.11 PRISONER SHOWERING

Prisoners who are held in our facility for more than 24 hours shall be given the opportunity to shower and shall be afforded subsequent showers at least every other day thereafter up until their court appearance. In the case of indigence and as a matter of decency to other prisoners, showers may be ordered for some prisoners before housing assignments are made.

900.16.12 ISSUANCE OF BLANKETS

Each prisoner shall receive one blanket upon entering the jail facility. In the event the prisoner is expected to stay overnight, another blanket shall be issued to be used as a mattress cover. Blanket exchange will occur daily.

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900.16.13 PRISONER RELEASE

Prisoners shall not be released until confirmation of their identity has been determined and all warrant checks including NCIC, AWS and local records have been queried for any outstanding warrants of arrest.

If it has been determined that no warrants of arrest have been lodged, the prisoner may be released pursuant to bail, citation release or Police Officer release (Penal Code § 849b) as appropriate.

The releasing Jail CSO shall ensure all sections of the ACCAR are completed. A check of the prisoners' personal history information shall be requested to ensure positive identification prior to release or transfer. Prisoner release shall not be delayed because of computer malfunctions.

No prisoner who is in an intoxicated state shall be released from custody. The determining factor shall be: the physical condition of the prisoner, not the passage of time; the posting of bail; or, the ability to post bail. He/she must have reached sobriety to the extent that his/her presence in public or in a vehicle, would not be a violation of any existing ordinance or law. The prisoner's sobriety must be certified by a Jail Supervisor or a Police Officer prior to release.

When prisoners are released from the jail, the sealed plastic bag containing the property of the prisoner shall be opened in the presence of the prisoner. The items shall be inventoried and returned to the prisoner and he/she shall acknowledge this by signing the property sheet.

When prisoners are to be transferred to the Alameda County Sheriff's Department, the transporting Officer shall inspect the sealed property bag(s) and the receipts for security and completeness. The bag(s) will remain closed and sealed. If the bag(s) appear to be damaged or opened, the transporting Officer in the presence of the Jail CSO shall verify the bag's contents, and make a note on the property receipt and the jail log.

The property bags shall be carried to the Alameda County Sheriff's Department where the accepting Deputy may open the bag, inspect and re-inventory the contents. The property receipt copy shall be returned to the jail for our records. Any discrepancies shall be documented and forwarded to the Jail Administrator for disposition immediately.

All listed property belonging to a prisoner shall accompany the prisoner whenever transferred from the Police Department. Except in cases where the prisoner is admitted to an Alameda County Hospital and those items which by their own nature cannot be taken, i.e. bicycles, T.V.'s etc. If any discrepancies are discovered with a prisoner's property during release or transfer, the Jail CSO or the Police Officer discovering the discrepancy will immediately report it to the Jail Supervisor and/or Other.

900.17 MEDICAL PROCEDURES

The purpose of this Order is to comply with mandates from the Corrections Status Authority and establish guidelines for medically screening prisoners and handling a variety of different medical situations.

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Detention Facility

900.17.1 MEDICAL PRE-SCREENING FORM

The Jail CSO will complete both sides of the Detention Facility Medical Screening Form for each arrestee who is booked into the Jail, noting pertinent information in the appropriate sections.

The Jail CSO will ask the arrestee all applicable questions on the front of the form and record observations of the arrestee's condition in the remarks section on the front and/or back of the form. A yes answer to any of the listed questions shall prompt an immediate decision on medical treatment, prisoner segregation, or transfer of the arrestee to the Alameda County facilities.

The medical pre-screening form will be attached to the original booking packet and become the prisoner's record. If the prisoner is transported for medical treatment, a copy of the medical screening form will be sent with him/her. The medical pre-screening form will be made available to paramedics and/or physicians administering emergency medical treatment in the Jail.

900.17.2 OBSERVATION AT TIME OF BOOKING AND DURING CUSTODY

At the time of booking, a visual assessment will be made of the arrestee to determine if the person is injured or in pain.

Any prisoners with obvious physical injuries will not be accepted or held in the Jail without a medical clearance stating the person has been examined and found to be medically cleared for detention by a licensed physician.

The Jail CSO shall immediately advise a Supervisor if any prisoner reports an illness and/or injury. The Jail Supervisor shall supervise the administration of first aid and arrange transport through the Watch Commander and Communications Center as appropriate.

All prisoners requiring routine medical examination will be transported to the appropriate hospital.

No prisoner will be transported to a doctor's private office for medical treatment. Prisoner's requiring on-going care by a private physician shall be transported to Santa Rita jail for housing.

All Jail personnel are required to be familiar with written standing medical orders posted in the Jail adjacent to all the telephones.

Medical and general health observation must be considered when placing a prisoner into the Jail population.

Prisoners with communicable or contagious diseases shall not be accepted for incarceration in the jail. Prisoners meeting these conditions shall be transported to Santa Rita jail for direct booking in accordance with standard Alameda County protocols.

Prisoners demanding or requiring medical service or attention shall be provided with medical care in accordance with state law. In the case of an emergency, medical personnel shall be summoned and care will be provided in accordance with standard operating protocol.

It shall be the option of the Watch Commander to cite out misdemeanors and provide them a future court date without the benefit of booking. Felony prisoners may also be released at the discretion of the Watch Commander if it is decided that a complaint should be sought and the prisoner can be re-arrested after the medical emergency has been resolved. In each of these cases the Jail shall

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book the prisoner into the CORPUS system as an unverified arrest and provide either a court date (misdemeanor) or provide the information needed for a Police Officer release per Penal Code § 849(b), whichever is appropriate.

Prisoners requiring medical care, who refuse treatment, shall be processed in accordance with current Alameda County protocol. At this time, prisoners shall be medically cleared at Highland Hospital and then transported to Santa Rita jail for direct booking.

Recommendation of the physician must be followed in all cases. No prisoner shall be held in Jail against the advice of a physician. If custody must be maintained, suitable arrangements for providing guard service shall be instituted by the Watch Commander.

The first aid kit located within the Jail shall contain items for the treatment of medical emergencies. Weekly, the day shift Jail Supervisor shall ensure that the first aid kit is replenished and available.

900.17.3 MEDICAL RECORDS

Records of treatment or diagnostic statements that fall within the Doctor/Patient confidentiality shall be transferred with the prisoner when he is transported to another facility. Follow-up medical treatment that is to be provided by Jail staff shall be relayed to the Jail Supervisor on duty. Instructions from a physician should become part of the prisoners booking package and shall be transported with the prisoner when he/she is transported to another facility.

900.17.4 HIGH RISK PRISONERS

Because of their medical history, certain individuals are classified as high risk prisoners. They are not to be detained in the Hayward Police Department Jail. The Jail Supervisor shall evaluate each on a case by case basis, and directly transfer to the County Jail Facility when applicable. The Watch Commander shall be advised when this occurs. The following are considered to be high risk prisoners:

- Diabetics
- Heart patients on medication
- Those using tranquilizers
- Those requiring psychotropic medication (being treated for mental disorder)
- Those on controlled medication
- Females past the third month of pregnancy (First Trimester)
- Developmentally disabled persons
- Addicted pregnant females

900.17.5 DEVELOPMENTALLY DISABLED / MENTALLY DISORDERED PRISONERS

Developmentally disabled prisoners are persons who are disabled due to mental retardation, cerebral palsy, epilepsy, autism, or a combination of these handicaps. On determination that a prisoner is developmentally disabled, he/she shall be placed in a segregated area and a Jail

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Supervisor and Watch Commander shall be notified. Such persons shall be transported to the appropriate medical facility or County Jail as soon as possible.

All mentally disabled prisoners of known diminished mental capacity are to be placed into segregated facilities. The Jail CSO is responsible for determining from the prisoner and the arresting Officer whether special treatment conditions exist.

In all cases involving mentally disordered or diminished capacity prisoners, the Jail CSO shall immediately notify the Jail Supervisor and Watch Commander. The Watch Commander will assure that a proper evaluation (Welfare and Institutions Code § 5150) of the arrestee's condition is conducted and will assure that the prisoner is transported to a medical or mental health facility as appropriate. At no time shall a violent mentally disordered prisoner be held at the Hayward jail. Those prisoners will be evaluated pursuant to (Welfare and Institutions Code § 5150) and transported to a medical or mental health facility as appropriate.

900.17.6 SPECIAL MEDICAL CONSIDERATIONS

Where there is reasonable cause to believe that a person in custody is addicted to a controlled substance, the Jail CSO or other persons having such knowledge shall immediately notify the Jail Supervisor. Pursuant to the Health and Safety Code § 11222, it is the duty of the Jail Supervisor to provide the person so confined with medical aid as necessary to ease any symptoms of withdrawal from the use of controlled substance. The Jail Supervisor shall make arrangements to have the prisoner examined at the appropriate Alameda County Medical Facility prior to determining the appropriate disposition of the prisoner.

Persons participating in any methadone maintenance program shall be allowed to continue in the program at the discretion of the Program Director. The Jail Supervisor has the responsibility for determining that an individual is on an authorized methadone program and that the individual is entitled to remain in the program. Jail staff must verify that the prisoner has a valid methadone program identification card.

900.17.7 HOSPITALIZATION

When a person in custody requires hospitalization in a secure medical facility, Highland Hospital will be utilized whenever possible. The on-duty Watch Commander will coordinate this transfer with the Alameda County Sheriff's Department provided the prisoner has been arraigned.

Prior to arraignment, if the person in custody requires housing at another location other than an approved detention facility, the Watch Commander will be notified and he/she will make the determination of whether a guard is required. The officer in charge of any case where it is necessary to guard a prisoner at a hospital or other location shall provide to the Watch Commander the name of the prisoner, the charge under which held, the hospital and room number, the attending physician, and the physical condition of the prisoner so far as it is known. The Watch Commander shall make ongoing determinations regarding the requirements for continued prisoner guard until the prisoner is cleared for incarceration or transferred to the custody of the Alameda County Sheriff after arraignment.

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900.17.8 COMMUNICABLE DISEASES

Persons suspected of having an infectious disease shall not be accepted into the Hayward Jail. The Jail CSO is responsible for inquiring at the time of booking as to the existence of any communicable disease (Refer to Executive Order 13295 signed by President Bush on April 4, 2003 and Section § 361(b) of the Public Health Service Act (Section § 42 USC 264(b))).

If it is determined that the person has a communicable disease, the arrestee will be segregated from all other prisoners pending transportation to an appropriate custody facility and after notification of the Jail Supervisor, Watch Commander and Jail Administrator. Special precautions will be taken to ensure the protection of employees and other prisoners at all times. Steps will be taken to see that the cell, bedding etc., are properly disinfected prior to the use by anyone else after the prisoner has been transferred.

It shall be the responsibility of the Jail Supervisor to ensure that all instances of reportable communicable disease exposure are promptly reported to the Watch Commander and Jail Administrator. The Alameda County Health Department shall be immediately notified in all cases of a mandated reportable communicable disease.

900.17.9 MEDICATION

Some non-prescription (over the counter) medication can be furnished to prisoners upon request. The Hayward Jail supplies aspirin or acetaminophen for pain or discomfort at the request of the prisoner. If a prisoner requests medication for discomfort, the Jail CSO may advise what is available and allow the prisoner to make their own selection. The Jail staff shall not make suggestions as to which selection is appropriate for the nature of discomfort and at no time shall a prisoner be provided a dosage in excess of the manufacturers recommendation.

Prisoners requiring medications by injection shall not be housed at the Hayward Jail. Prisoners requiring frequent doses of prescribed medication(s) shall not be housed at the Hayward Jail except in cases of short term custody where the general time span is four hours or less.

Drugs that should never be delivered at the Hayward Jail include cardiac medications, all narcotics, sedatives and tranquilizers, anti-psychotic drugs, any drug that is to be injected and any research or experimental drugs.

Under special circumstances, the Jail Supervisor and/or Other shall make the decision to keep a prisoner who needs certain medication delivered in our custody. These instances shall be documented in the jail log and medications may be delivered under the following conditions:

(a) Delivery of approved medications in a prisoner's possession at the time of booking may be completed as directed on the label as soon as it has been identified as corresponding with the prescription label. Identification can be made by accurately identifying the medication through contact with a physician or by calling the on-duty nurse at an Alameda County Medical Facility. If there is a question regarding the identification of the medication through the use of the above means, the medication can be transported to an Alameda County Medical Facility for identification.

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(b) When there is a properly labeled prescription container (i.e., container includes the name of the individual for which the drug is prescribed, the name, dose and instructions for taking the medication, the name of the prescribing physician, and the expiration date), then a single dose may be delivered by Jail staff. Delivery will be accomplished by showing the prescription container to the inmate, verifying that the medication belongs to them, removing one dose of the medication from the container, handing the dose to the inmate and allowing the inmate to ingest it. Upon completion of this process, verification of ingestion shall be completed by having the inmate open the mouth and visually inspecting all areas including under the tongue. Notation shall be made of this process in the Master Jail Log. Dispensing must be done by a licensed physician or pharmacist.

(c) Health and Safety Code § 11222 states, "In any case in which a person is taken into custody by arrest or other process of law, and is lodged in a Jail or other place of confinement and there is reasonable cause to believe that such person is addicted to a controlled substance, it is the duty of the person in charge of the place of confinement to provide the person so confined with medical aid, as necessary, to ease symptoms of withdrawal from the use of controlled substances." In compliance with this requirement, persons who are participating in a methadone maintenance program may be provided their daily dosing by their specifically approved program while in custody.

(d) The Jail CSO will, at the time of booking, inquire of all female prisoners whether or not they require medication or other special requirements for birth control purposes. The Jail Administrator or Jail Supervisor on duty shall determine that such birth control measures are duly prescribed by a physician, shall make arrangements for use of all necessary birth control medication and shall confirm the fact that such medication is taken. A request for the continuance of birth control measures, confirmation with the prisoner's physician and confirmation of the use of such measures, shall in all cases be noted on the individual's booking papers, medical inventory form, and Jail facility log. If a female prisoner has birth control medication in her property at the time of booking and desires to continue its use while in custody, the medication will be verified by the Jail Supervisor or medical authority prior to ingestion by the prisoner. If a female prisoner states that she takes birth control medication and a friend or relative brings it to the Jail for her, the medication will be verified by the Jail Supervisor and/or medical authority prior to ingestion by the prisoner. If a female prisoner states that she takes birth control medication and desires to continue but does not have any in her property and has no one that can bring it to the Jail facility, the prisoner will be transported to the Alameda County Jail, where such medication will be provided under medical supervision. Any medication of this type delivered to the prisoner must also comply with the packaging and labeling requirements outlined above.

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900.17.10 DELOUSING / PEST CONTROL

Persons suspected of lice/scabies infestation shall not be accepted into the Hayward Jail. The Jail CSO is responsible for inquiring at the time of booking as to the existence of any lice/scabies infestation.

If it is determined that the person has a lice/scabies infestation, the arrestee will be segregated from all other prisoners pending transportation to an appropriate custody facility and after notification of the Jail Supervisor, Other and Jail Administrator. Special precautions will be taken to ensure the protection of employees and other prisoners at all times. Steps will be taken to see that the cell, bedding etc., are properly disinfected prior to the use by anyone else after the prisoner has been transferred.

The Hayward Jail will be inspected and treated as appropriate by a licensed exterminator at least annually in addition to mitigation of specific incidents. The Jail CSO's shall make entry into the jail log and notification to the Jail Supervisor of the observations of any pests or insects or complaint of insect bites to either the prisoners or staff.

900.17.11 ORTHOPEDIC / PROSTHETIC DEVICES

Pursuant to Penal Code § 2656, a person sentenced to incarceration or who is being held pursuant to a pending criminal matter in a county or city Jail or other county or city custodial correction facility shall not be deprived of the possession or use of any orthopedic or prosthetic appliance, if such appliance has been prescribed or recommended and fitted by a physician. If, however, the person in charge of the county or city custodial or correctional facility has probable cause to believe possession of such orthopedic or prosthetic appliances constitutes an immediate risk of bodily harm to any person in the facility or threatens the security of the facility, such appliance may be removed.

If such appliance is removed the prisoner shall be deprived of such appliance only during such time as the facts which constitute probable cause for its removal continue to exist; if such facts cease to exist, then the Jail Supervisor shall return such appliance to the prisoner. If the appliance cannot be returned to the prisoner due to security reasons, then the prisoner shall be examined by a physician as soon as practicable but no longer than 24 hours from removal to determine if the removal will be injurious to the health and safety of the prisoner. If the removal is determined to be detrimental to the health and safety of the prisoner, then the prisoner shall be transported to an appropriate facility for incarceration. This shall also be documented in the Jail log.

900.17.12 SUICIDE PREVENTION

The responsibility of all Jail staff in suicide prevention is that of an observer. Awareness of suicide potential in a prisoner is essential to proper crisis intervention by mental health professionals. Belief that a prisoner is in imminent danger of committing/ attempting suicide shall require immediate notification to a Jail Supervisor and/or Other requesting a Welfare and Institutions Code § 5150 evaluation of the prisoner, while maintaining him/her under close observation (preferably in the small cage in the processing area).

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Detention Facility

It is important to be aware that not all suicidal persons will display signs of depression, although it is still usually the best single indication of potential suicide. During a suicidal crisis most persons will display either some or all of the following symptoms which we will categorize as observable physical signs of depression. Their symptoms include:

- Sadness and Crying
- Withdrawal/Silence
- Loss of Appetite
- Insomnia
- Mood Swings
- Lethargy

Alcohol and/or drug abuse are often common denominators amongst potential suicide victims in the jail setting. These factors often distort an individual's perception of reality and may lead to the formation of suicidal thoughts. Observation and effective verbal interaction are the best methods of potential suicidal detection. Suicide prisoners shall be checked every (15) minutes throughout the duration of incarceration at the Hayward Police Jail.

900.17.13 INCIDENTS OF DEATH IN THE JAIL

In the event that a Jail CSO discovers that a prisoner may have died while in custody, he/she must immediately begin life saving measures in accordance with appropriate CPR/First Aid procedures. Other jail staff shall summon medical assistance. Notification shall be made to the Jail Supervisor, Jail Manager, and the Watch Commander, who shall be responsible for notifying the Chief of Police, Division Commanders, Criminal Investigative Bureau, and the Alameda County Coroner's Office.

The Jail Administrator shall ensure notification of and investigative cooperation with other responsible agencies including, but not limited to, the Alameda County District Attorney, Alameda County Health Department, California Department of Justice, California Attorney General, and the Corrections Standards Authority.

In all in-custody death cases, the Jail Supervisor on duty at the time of the incident shall document the incident and all subsequent actions taken in the jail log. An administrative memorandum containing this information shall be directed to the Chief of Police. The Jail Administrator shall be responsible for contacting the Alameda County Consolidated Criminal Records Division to update the deceased prisoners' status in CORPUS from "Held" to "Died."

California Government Code § 12525 requires that in any case in which a person dies while in the custody of a law enforcement agency, or a local or state correctional facility, the agency shall report in writing to the California Attorney General within (10) days after the death, all facts in their possession concerning the death. The assigned investigator shall ensure all written reports consisting of incident reports, coroner's reports, death certificates and other reports containing information relating to the death are forwarded in compliance with current state mandates. The

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Bureau of Criminal Statistics (BCS) is responsible for maintaining the Death in Custody reports submitted to the Attorney General. In addition, copies of all reports shall be forwarded to the Corrections Standards Authority.

A review team comprised of the Chief of Police and/or his/her designee, the health administrator, the responsible physician, and other health care and supervision staffs who were relevant to the incident shall conduct a review of the incident.

In addition to the procedures outlined above, in the case of a juvenile involved in a serious illness or death in custody, it shall be the responsibility of the facility manager or his/her designee to ensure that the juvenile court and the parent, guardian or person caring for the juvenile in lieu of the parents are also notified. Additional information may be found in the Drug Endangered Children Policy.

900.17.14 SPECIAL MEDICAL CONSIDERATIONS

Any prisoner entering the Hayward Jail who was restrained by use of the carotid control and/or Electronic Control Device (ECD) shall have a medical clearance. These prisoners shall be checked by the jail staff at least once every (15) minutes and their status shall be documented in the Jail Log. The duration of the (15) minute checks shall be (4) hours. A copy of the ACCAR and Jail Log showing the documentation of the prisoner check shall be given to the Jail Administrator. Any prisoner who is restrained by the use of the carotid control and/or Electronic Control Device (ECD) while incarcerated at the Hayward Police Jail shall be transported to the hospital for medical clearance before incarceration may resume.

Any prisoner receiving or sent for medical treatment and presented to the Hayward Jail for custody shall have their medical paperwork reviewed by the on duty Jail Supervisor to ensure that treatment was provided for the injury/illness indicated, that the paperwork indicates clearance for incarceration in a facility without onsite medical, and that the Hayward pre-booking medical clearance form is properly completed. This information shall be forwarded to the Jail Administrator.

900.18 FINGERPRINTING AND MUG SHOT PROCEDURES

Prisoners shall be booked and fingerprinted according to the current requirements outlined by the Alameda County Central Identification Bureau (CIB), Department of Justice (DOJ), and the Correction Standards Authority. MUG photographs are now taken by the digital camera system attached to the Alameda County Automated Booking System MUGS. Photographs are to be taken of all arrestees as part of the completed MUGS booking, and forwarded to CIB. The procedures for fingerprinting prisoners are as follows:

(a) Jail staff will take a prisoner's fingerprints and palm prints utilizing the Alameda County approved electronic digital fingerprinting system. All fingers on each hand will be rolled individually at a determined sequence in the fingerprint collection process, with full flat impressions of the fingers and palm prints of both hands taken to finish off the process.

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(b) The fingerprints and palms prints will be forwarded electronically to Alameda County Central Identification Bureau (CIB) for identification comparisons and retention. At this time they are also forwarded to the California Department of Justice (DOJ) by CIB.

(c) The Alameda County Central Identification Bureau (CIB) will inspect and compare the fingerprints and advise the Department electronically in short order whether a match exists with a known subject or if the fingerprints are new to their database and require them to issue a new Personal File Number (PFN) or Juvenile File Number (JFN) for the subject. If a match exists, they will provide the confirmation using the subjects PFN or JFN.

(d) Jail staff shall indicate all pertinent biographical information regarding the subject, including the PFN or JFN on all completed fingerprint cards.

The procedures for photographing prisoners are as follows:

(a) Jail staff shall have the subject sit down in a chair specifically designated for capturing mug photos. A photograph of the subject will be taken on the Alameda County installed and approved digital camera system. Jail staff will accept or re-take the photograph as appropriate.

(b) Prisoner photographs will be forwarded electronically to Alameda County Central Identification Bureau for retention in the county system under that prisoners name and Personal File Number (PFN) or Juvenile File Number (JFN). A copy of the photograph will also be embedded on the printed Alameda County Consolidated Arrest Report (ACCAR) booking sheet for that subject and submitted with the corresponding police report relating to the arrest.

900.19 TELEPHONE CALLS

Penal Code § 851.5, states that a person arrested has the right to make three completed telephone calls immediately upon being booked or no longer than three hours after the arrest. These calls are to be at no expense if completed to a local dialing area and at the arrested person's expense if outside the local dialing area. Penal Code § 851.1 establishes the minimum number of calls allowed. Additional calls may be allowed if the requests are reasonable and can be accommodated. These calls are to be completed to any of the following:

(a) An attorney of the arrestee's choice or, if they have no funds, the Public Defender or other assigned by the court to assist indigents. This telephone number shall be posted within the Jail facility and under no circumstances will the call be monitored, eavesdropped upon, or recorded.

(b) A bail bonds person.

(c) A relative or other person.

Upon booking, the Jail CSO shall inform the prisoner that he/she has the right to three completed telephone calls within the local dialing areas without cost to them. In addition, public telephones

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have been provided in the housing and holding cells for the prisoner's unlimited use. Once the prisoner has been advised of his/her telephone rights, he/she shall sign the booking sheet acknowledging his/her right to use of the telephone.

Prisoners detained for parking and traffic violations that are covered by California Vehicle Code § 40304.5 shall be afforded the right to make at least three completed local or long distance (within the nine Bay Area Counties), without cost to them, to obtain bail.

From time to time, Officers will have the need to have numbers called by their prisoners recorded. As such, the investigating officer shall advise the Jail CSO of this request, and they will ensure that the prisoner is segregated into a housing/ cell unit where the public phone may be turned off. A phone call log shall be maintained and a notation made in the Jail log to this fact. All calls from that prisoner shall be recorded on the jail log. After the prisoner is released or transferred to the County Jail, the original phone log shall be forwarded to the Jail Administrator and a copy provided to the requesting officer.

Prisoners who are unable to complete a phone call due to their intoxication or hostility, shall be given the opportunity to place a call once it is determined that they are no longer a threat to the safety of the Jail staff or themselves and/or their state of intoxication has diminished to the point that they can successfully complete the call. Should the phone calls be delayed for the above reasons, the Jail CSO shall indicate the reason and the time/date on the Jail log. Prisoners' who are unable to complete phone calls using the telephones in the Jail due to a disability and/or hearing impairment, shall be allowed access to the TDD machine. The Jail CSO shall inform the prisoner of the availability of the TDD phone at the time of booking and ask the prisoner (in writing if the prisoner is deaf) if they wish to use the TDD machine. This shall be noted on the booking Alameda County Consolidated Arrest Report (ACCAR). If a prisoner wishes to use the TDD machine the CSO shall set up the machine, located in the Jail at the property locker counter, for use by the prisoner.

The prisoner name and time they used the machine shall be entered in the Jail log. Any prisoner that needs the use of the TDD machine shall be asked by the Jail staff in writing if they wish to use the machine at a later time, if they do not wish access to the TDD at the time of booking. This shall be noted in the Jail log and it shall be the responsibility of each Senior Jailer coming on duty to ensure the prisoner is asked if they wish use of the TDD machine. The TDD machine shall be made available to the prisoner who is not hearing impaired if they request the use of this machine. A prisoner might need to make contact with a parent, friend or other relative who is hearing impaired, and the Jail staff shall make arrangements for any prisoner that requests the use of this machine. This information shall be entered in the Jail log. All written communications between the Jail staff and the hearing impaired prisoner shall be kept and forwarded to the Jail Supervisor.

A Jail Supervisor, Jail Administrator or Other may approve suspension of the telephone call requirement of Penal Code § 851.5. An Officer may request suspension of the telephone requirement if providing the prisoner access to a telephone may endanger the safety of others or evidence may be destroyed or accomplices of the crime may be alerted. The Officer shall notify the Jail at the time of the booking of any restrictions to telephone access and shall be responsible

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to immediately contact the Jail staff when these restrictions may be lifted. Documentation of the restrictions and date/time will be logged in the Jail log.

900.20 LOGGING AND TRACKING PRISONERS

There shall be a Jail Log kept in the booking area at all times. The log shall be maintained in a 24-hour format commencing at 0600 hours each day. The on duty Jail Supervisor is responsible for certifying the accuracy of each page of the log by signing and dating each page. At the completion of each shift, the on-coming and out-going Jail Supervisors shall log the shift change and the prisoner population count along with any unusual circumstances in the Jail. The population count must be verified. In the event of a discrepancy, all prisoner movement will stop and no personnel shall be relieved of duty until the count is verified.

The four (4) sets of Jail keys and electronic equipment stored in the Jail shall be accounted for and recorded in the Jail log at the beginning of each shift prior to the release from duty of any staff. Missing keys and equipment shall also be reported to the Jail Administrator.

The prisoner food service area shall be inspected by the Jail Supervisor at the beginning of each shift for food stocks and equipment operation. All discrepancies shall be immediately reported to the Jail Administrator via email.

The Jail CSO's shall inspect the Jail daily to ensure cleanliness and the absence of conditions that may be conducive to infestation by vermin or insects. Any noted deficiencies shall be reported to the Jail Supervisor, who shall cause all deficiencies to be corrected as soon as possible.

Every intoxicant that enters the Jail for booking shall have their name entered in the Jail log. Intoxicants shall be checked by Jail staff at least once every half hour and their status shall be documented in the Jail log. For each intoxicant housed in the sobering cell, mandatory consideration for movement to regular housing and medical evaluation shall be conducted as mandated and so noted in the Jail log.

The Jail log shall contain the name of those prisoners that have been transported to the hospital and the reason; as well as, the prisoners that have been temporarily removed from the Jail by an officer and those that have been removed from the facility for visitations.

It shall be noted in the Jail log when a prisoner enters the Jail with any medical problems and/or medication needs. Any medicine delivered by the Jail staff shall be documented in the Jail log.

It shall be the responsibility of the Jail Supervisor to ensure all pertinent information and events that occur in the Jail are entered on the Jail log.

900.20.1 WARRANT INQUIRIES / NAME SEARCH

A warrant inquiry/name search will be conducted on all arrestees booked into the Jail. This will be accomplished by completing a routine inquiry into the Automated Warrant Systems (AWS), the Department of Justice (DOJ) and the National Crime Information Center (NCIC) computer systems. Warrant service and updates shall be conducted in compliance with current Alameda County booking procedures.

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Jail personnel will be responsible for sending their own teletypes as they pertain to outside agency warrant arrests and notifying the agency on prisoner pick-up procedure. In addition, they will send and receive all teletypes that relate to the complete booking process.

Once an arrestee has left the custody of the Hayward Police Department, the booking packet containing property receipt, medical pre-screening form, medical/hospital forms, ACCAR and any other relevant paperwork, shall be attached together and placed in the out of custody box located on the Identification Desk in Records.

900.21 CELL CHECKS

Cell checks shall be conducted once in every (30) minutes. The results of the cell checks including verification of prisoner count shall be entered into the jail log.

Cell checks can be completed by looking through the glass window in the cell door to check on the welfare of the prisoners. If all of the occupants in the cell cannot be seen through the window in the cell door, the door will have to be opened. Before opening the cell door, assistance from another custody staff member or officer to visually check on the welfare of the occupants in the cell is required.

Sobering Cell checks shall be done every (30) minutes to ensure the health and safety of all intoxicated prisoners. With the assistance from another custody staff member or officer, the door shall be opened and the intoxicated prisoner shall be checked to include verbal responsiveness. Suicide prisoners shall be checked every (15) minutes throughout the duration of incarceration at the Hayward Police Jail. The results of the cell check shall be recorded in the jail log noting minimally the time, the activity of cell check and the status of prisoners. In cases where a problem is identified, appropriate detailed notation shall be made and appropriate notifications completed.

900.22 VISITATION

The Jail Community Service Officers (CSO) shall verify the identity of all persons that are permitted to visit any prisoner in our custody. It is required that each person have a valid government form of identification (i.e. California Driver's License, California Identification Card, Military I.D. card or acceptable picture I.D. as determined by the Jail Administrator, Jail Supervisor or Other). If the visitor is an attorney he/she must be in possession of both a valid form of identification (official picture type) and a current California Bar Association Card. If the visitor is a clergy person, he/she must have a valid form of identification that verifies that they are a member of the clergy.

Once the identity of the visitor has been determined, the Jail CSO shall record the following information in the daily Jail log:

(a) Date and time of visit.

(b) Visitors name.

(c) Identification type and associated number.

(d) Name of the approving official.

(e) Officer supervising the visit.

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(f) Time visit ended.

Prior to entry into the non-public areas of the Police building the visitor shall be electronically screened with the Jail metal detector. Visitors shall be escorted at all times while inside the police building. The visitor shall be placed in the visitor room in the front office (front office fingerprinting room) and the audio/video unit will be activated by the CSO to establish communication with the prisoner in accordance with current equipment procedures currently posted in the visitation area.

The prisoner shall be placed in the Jail interview room and the audio/video unit will be activated by the Jail staff. Once communication is established the Jail CSO shall exit the room and secure the door. Visits are limited to 20 minute durations. Visiting hours for persons held in custody in the Jail are between 1:00 pm and 5:00 pm daily. The Jail Administrator, Jail Supervisor or Other may waive the hours in cases of special need. Visits will be limited to twenty (20) minute durations. Visitation by minor children will be in the company of a responsible adult.

900.22.1 EXCEPTIONS TO THE VISITING PROCEDURE

Exceptions to the regular visiting hours and time limits will be made for attorneys, clergymen and persons who can assist in the administration of justice. Exceptions to the visiting procedure will be made for prisoners with a disability that prevents them from following this written procedure. The Jail Supervisor will make arrangements for prisoners to receive a visitor when the circumstances dictate that our normal visiting procedures will not allow communication between prisoner and his/her visitor, i.e.: prisoners who are deaf and/or hearing impaired will need to be placed in an area where they can communicate with their visitor, (face to face). All other special consideration for visitation shall be at the discretion of the Jail Administrator, Jail Supervisor or Other.

The on-duty Jail Supervisor shall in their best judgment, provide space and adequate security for visitation for all prisoners in custody that request this right. The Jail Supervisor or most senior CSO on-duty shall always be aware of and make adjustments for, any prisoner whose disability would prevent them from following our regular visiting procedure. If, in the Jail Supervisor's opinion, providing visitation for a prisoner outside of our standard operating procedures would jeopardize the safety and security of our facility, he/she will make arrangements to have the prisoner transported to the Alameda County Jail, where their facility can provide a secure visiting environment.

900.22.2 ATTORNEYS / PUBLIC DEFENDERS

An attorney (and/or Public Defender) cannot be denied the right of seeing his/her client at any time, and as often as, in his/her judgment is necessary, in the interests of his/her client. As such, all requests of attorneys to visit their client shall be granted without unreasonable delay. Prisoners shall be considered to be a client of an attorney if the prisoner or relative of a prisoner has called the attorney. If the attorney has been sent by a friend and the prisoner expresses a desire to see him/her, the prisoner shall be considered a client of the attorney. When an attorney has been assigned by the court, the Public Defender shall be considered an attorney by the court. An attorney is entitled to privacy when consulting with the prisoner. If two or more prisoners have been arrested for the same offense and are being tried jointly, and have retained the same attorney(s), it is

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permissible for the attorney's at his/her request, to interview these prisoners either individually or collectively.

An attorney requesting to have personal contact visit with his client shall be granted the request. The prisoner shall be placed in leg restraints and escorted to and secured in the juvenile secured detention facility. Two employees shall escort the prisoner. The attorney shall then be escorted to the juvenile secured detention facility. The attorney and his property, i.e., briefcases, shall be searched prior to his entering the juvenile secured detention facility. A metal detecting device will be used as well as pat and visual search.

The attorney and his client shall be left secured in the detention facility with a Community Service Officer or Police Officer near the door to release the attorney at the conclusion of his visit and to provide security. At the completion of the attorney's visitation the prisoner shall be left secured in the juvenile detention facility while the attorney is escorted to the exit. Two employees shall thoroughly search the prisoner before leaving the juvenile secured detention facility and returning the prisoner to the main jail. The juvenile secured detention facility shall also be searched. Once in the main jail another search shall be conducted utilizing both pat search techniques and metal detecting devices.

900.22.3 OUTSIDE AGENCY PERSONNEL VISITATION

Sworn personnel from other jurisdictions/agencies will be permitted to visit/interview prisoners with the approval of the Jail Administrator, Jail Supervisor or Other. Personnel employed by the Alameda County Probation Department as pre-trial service interviewers, will be given access to the Jail to conduct pre-trial interviews. The purpose of these interviews shall be for the Probation Department to determine if a prisoner in custody meets the court requirements for an "Own Recognizance Release."

Jail Community Service Officers shall escort such personnel into the Jail. They will be allowed to view the ACCAR and to ask the pre-formatted questions on their court pre-trial interview worksheets. The interviewing shall take place through the door hatch to the Jail housing unit. At no time will the probation interviewer be allowed into a housing unit nor will any prisoner be allowed outside of their housing unit while the probation interviewer is within the Jail. The health, welfare and security of the prisoner shall be given priority consideration at all times, regardless of whom the visitor might be.

900.22.4 CLERGY

A clergy person cannot be denied the right of seeing an prisoner when the prisoner has requested such visits. If the clergy member had been sent by a friend or relative and the prisoner expresses a desire to see him/her, the prisoner shall be allowed the visit.

900.23 PRISONER DISCIPLINE

Any person brought to the Hayward Police Department Jail shall not be subject to any form of discipline for their actions. Any use of restraints shall be for the sole purpose of preventing injury or harm to the prisoner, an employee, other prisoners, or the facility. Any conduct by prisoners

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which violates any law or ordinances while in custody at the Hayward Police Department Jail shall be investigated and documented for potential prosecution by the District Attorney's office.

900.24 CITATION RELEASE OF ELIGIBLE PRISONERS

Pursuant to Penal Code § 827.1, any person arrested under the authority of a misdemeanor warrant may be released upon signing a written promise to appear (citation), unless one of the following conditions exists:

(a) The misdemeanor involves violence.

(b) The misdemeanor involves a firearm.

(c) The misdemeanor involves resisting arrest.

(d) The misdemeanor involves giving false information to a peace officer.

(e) The person arrested is a danger to himself or to others, due to intoxication or being under the influence of drugs or narcotics.

(f) The person requires medical examination or medical care or is otherwise unable to care for their own safety.

(g) The person has other ineligible charges against them.

(h) There is a reasonable likelihood that the offense would continue or resume, or that the safety of persons or property would be imminently 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, or when other means to identify the individual fail.

(k) The warrant of arrest indicates that the person is not eligible to be released on a citation.

(l) There is reason to believe that the person would not appear at the time and place specified in the notice. The basis for this determination shall be specifically stated.

After booking, Jail CSO's will be responsible for evaluating each person's eligibility for release and completing the necessary documentation. The arresting officer is responsible for advising the Jail CSO of any pertinent information likely to affect eligibility for release. If eligible for release, the release shall be accomplished in accordance with current Departmental and Alameda County booking procedures. In the event that the arrestee is ineligible for release, the Jail CSO shall ensure that the arresting officer completes the "Misdemeanor Arrest-Report of Non-Release" form.

900.24.1 OUTSIDE AGENCY WARRANT ARRESTS

In the event the arrestee is booked on a misdemeanor originating from an outside agency, that agency shall be given an opportunity to pick up the prisoner. The response time for pick-up must be reasonable (usually one to two hours) and applicable Penal Code §§ 821 and 822 requirements

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must be met. Otherwise, the arrestee should be released on a citation. Individuals released on citations shall be given the date, time and location of appearance as prescribed by the court having jurisdiction. Jail staff will initiate teletypes to the appropriate agencies advising of the release and the assigned date and time of appearance.

900.25 BAIL

The purpose of this Order is to outline the acceptance of bail in accordance with State law and current Alameda County protocols.

900.25.1 BAIL AUTHORIZATION

Cash, United States Treasury Bonds, Surety or Bail Bonds may be accepted as bail for any person in custody on or named in a warrant charging or held on a qualifying on-view offense. Bail Bond certificates or credit cards issued by some automobile clubs are not acceptable in lieu of one of the approved bail.

900.25.2 CASH

Cash may be accepted as bail and a receipt given for the total, including penalty assessment.

900.25.3 TREASURY BONDS

Treasury bonds may be accepted and posted in a lesser amount than the bail, including penalty assessment, providing the difference is covered by the posting of cash, surety or bail bonds. A bail receipt shall be given for the total face value of the Treasury bond plus any cash posted. The bonds shall be described by the type of bond, serial number and the total number of coupons attached to each bond. If a surety or bail bond is posted to cover the difference, the serial number and amount shall be noted. Treasury bonds may not be posted in an amount greater than the bail, including penalty assessment, nor may change be given from bail drawer.

900.25.4 SURETY OR BAIL BONDS

Surety or bail bonds may be accepted and posted in a lesser amount than the bail, including penalty assessment, providing the difference is covered by the posting of cash or another Surety or Bail bond. Surety or Bail bonds must be approved by the Jail Supervisor. Each bond shall be checked to determine that the following information is included and any omission is sufficient cause to decline approval. The date must be the date of arrest, indicated by the month, day and year. The defendant's name must be spelled correctly. The charge or charges must be the same as the charges on which the defendant is booked. The word misdemeanor or felony must be noted in the appropriate field. The sum shall be the amount of bail, including penalty assessment, or the maximum amount of the bond, whichever is less. The sum shall not include any cash posted in conjunction with the bond. The name of the court and the appearance date must be noted. The bond must be notarized and stamped.

900.25.5 CHECKS

Personal checks with proper identification and issued from a banking institution in the State of California, may be accepted up to the amount $300. The check will be made out to the court in

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which the case is to be heard or to the court in the jurisdiction that holds the warrant, whatever the case may be. A Bank Cashier's check or Money Order is acceptable if it is drawn on a banking institution located in the United States and in the amount not exceeding the amount of payment. Traveler's checks are acceptable if the person presenting them shows satisfactory identification and the amount does not exceed the amount of payment. Bank Cashier's Checks, Money Orders, and Traveler's Checks plus cash, totaling the amount due, may be accepted when the face amount of any of the above listed checks is less than the amount due.

900.25.6 BAIL ENVELOPES

In all cases bail shall be place in a bail envelope. The face of the envelope shall be completely and accurately filled out and the envelope placed in the locked bail drawer. When cash is posted for bail, the accepting CSO shall have another employee witness the counting of the cash and both shall sign the envelope flap after it is sealed. Bail posted in currency in an amount greater than $2,000.00 shall be placed in an empty evidence locker for safe keeping and the locker shall be secured. A Hayward Police Department Property/ Evidence receipt shall be filled out and placed with the envelope and a copy of the receipt shall be placed into the Bail Bond drawer.

900.25.7 MULTIPLE WARRANTS

The correct bail must be obtained for each jurisdiction when a person is arrested on multiple warrants from multiple jurisdictions. One bond or one check cannot be divided between courts.

(a) One subject, one court, one warrant, one receipt.

(b) One subject, one court, two warrants, one receipt.

(c) One subject, two or more courts, one or more warrants from each court, one receipt for each separate court which includes all the warrants from the court.

900.25.8 BAIL RECEIPTS

All bail receipts shall be written on the three-part bail receipt machine at the front counter. They are dispersed as follows:

(a) White original with bail.

(b) Yellow copy to the person posting bail.

(c) Pink copy retained for permanent Department record.

Each receipt must contain the name and address of the person or firm posting the bail. Each receipt shall be completely filled out. Court appearance dates shall be properly noted and may be obtained from the list of local court appearance dates located with the bail receipt machine. Outside court appearances shall comply with the instructions printed on the warrant or as dictated by the court of jurisdiction.

900.25.9 PROCESSING OF BAIL

The Warrant Clerk shall remove all of the bail envelopes from the bail bond drawer at least three times per week (Mon, Wed and Fri). The Warrant Clerk shall process all bail monies, checks and

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bonds, forwarding them and the appropriate warrants to the correct jurisdiction. The Warrant Clerk shall keep available records of all bail receipts and the processing of the bail, the total of which should be identical. The white original bail receipt shall be forwarded to the original report.

900.25.10 OUT OF COUNTY - RIGHT TO APPEAR
If the charge is a misdemeanor and the warrant is from another county, the Officer must, without unnecessary delay, inform the defendant of his right to be taken before a magistrate. A note shall be made on the warrant that he/she so informed the defendant, and upon being requested by the defendant, they shall be taken before a magistrate for setting bail as described in Penal Code § 822.

900.26 PRISONER TRANSFER CLASSIFICATION PROCEDURE

Classification of prisoners who are being transferred from the Hayward Police Department Jail facility takes two forms; those separations that are required by law and those which are implemented for officer safety, to protect staff and prisoners from harm either by physical encounter or contagious disease. There shall be a written notification list to the transfer agency with prisoner's name, PFN and classification code. In cases where prisoners are considered an unusual security risk, verbal notification to the appropriate agency or court shall be made prior to transporting the prisoner.

A copy of the medical screening sheet shall be placed in a sealed envelope, marked with the prisoner's name and PFN, and stamped "Medical/Confidential". This envelope shall accompany the transferred prisoner.

The following codes are to be used for the classification of prisoners who are being transferred:

(a) M/L: Mainline

(b) F: Female

(c) ALS: Alternative Lifestyle

(d) P/C: Protective Custody

(e) CO-DEF: Co-Defendant w/___

(f) KSF: Keep Separate From

(g) MEN: Mental/5150

(h) Medical

(i) Violent

(j) Suicidal

In practice, prisoners following under (h) Medical and (i) Violent will be classified with supplemental notation utilizing the (d), P/C: Protective Custody classification. Those prisoners following under (j) Suicidal will be classified with supplemental notation utilizing the (g), MEN: Mental/5150 classification.

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Detention Facility

900.27 PRISONER TRANSPORTATION

Designated transport vehicles will be used to transport prisoners between various courts and custodial facilities. If necessary, transport vehicles may be used to transport large groups of officers to specific locations. The Watch Commander is responsible for the lawful and expedient operation of the transportation vehicles. If any problems arise regarding the operation of the transportation vehicles, it will be the responsibility of the Watch Commander to resolve the conflict. It will be the driver's responsibility to notify the Watch Commander as soon as possible of any unusual circumstances that occur during transit.

900.27.1 LICENSING AND TRAINING

All personnel assigned to operate transportation vehicles shall have in their possession the appropriate California Driver's License with any endorsements required for the particular vehicle type. In addition, all personnel assigned to operate a transportation vehicle will have completed training to include specific instruction on transportation procedures. Training sufficient to satisfy this requirement may be accomplished through completion of a Peace Officers Standards and Training (POST) basic academy, a course of instruction certified by the Corrections Standards Authority (CSA).

900.27.2 CARE AND USE OF EQUIPMENT

Prior to using the transportation vehicle, it shall be the responsibility of each driver to inspect all security doors, window screens and emergency exits for defects. The driver shall also inspect all fire extinguishers and first aid kits to ensure they are functional. The driver shall also be responsible for completing a contraband search of all areas within the vehicle. Upon completion of the transport, the driver shall be responsible for again completing a contraband search of all areas within the vehicle. The driver shall be responsible for ensuring that the transportation vehicle is returned to its appropriate stall with adequate fuel (1/2 tank minimum), and has been checked for cleanliness.

900.27.3 PRISONER MOVEMENT

Before any prisoner is boarded for transport, the transporting officer(s) shall determine the number of persons being transported and assure the proper paperwork and property is available for each prisoner. The transporting officer(s) shall determine seating arrangements of the prisoners. If special precautions dictate special handling, the transporting officer(s) shall make those arrangements. The transporting officer(s) will decide what compartments of the transport vehicle will be used as dictated by gender or classification requirements. The same classification criteria utilized for housing shall be applied when determining transportation requirements.

Generally and when circumstances permit, prisoners of the opposite sex, or adult and juvenile prisoners, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating prisoners is not practicable, officers should be alert to inappropriate physical or verbal contact between them and take appropriate action as necessary.

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900.27.4 DISABLED PRISONERS

If a prisoner is so disabled that it would jeopardize the health of the prisoner or if the transporting officer might incur an injury moving the individual, a supervisor shall be notified. If the disabled prisoner is confined to a non-collapsible wheelchair, arrangements shall be made for the services of a specialized transportation vehicle. A Police Officer shall follow the specialized transportation vehicle in a patrol car. The Officer shall make all necessary arrangements with the accepting agency prior to transport. When this situation exists, the Court Deputy will be notified of the circumstances.

900.27.5 RESTRAINING DEVICES

Under normal circumstances, prisoners shall be transported handcuffed in pairs, right-hand to left-hand respectively. Prisoners who are escape risks may require the use of waist restraints and/or leg irons at the discretion of the jail staff. Considerations should be given to separate transportation of combative or other high-risk prisoners by a sworn officer.

900.27.6 TRANSPORTATION VEHICLE SECURITY

The transportation vehicle shall not be left unattended when there are prisoners on board. All doors and gates to prisoner compartments are to be secured at all times after the vehicle is loaded and ready for transport. These compartments are to remain secure until arrival at predetermined locations or in the event of an emergency. Prisoners shall not be transported in the driver's compartment of the transportation vehicle at any time.

900.27.7 EMERGENCIES DURING TRANSPORT

In the event of an attempted escape and/or a simple assault, the driver shall do the following:

(a) Advise Dispatch of the circumstances and request assistance as deemed necessary.

(b) Continue to the original destination unless otherwise directed by the Jail Administrator, Jail Supervisor or Other. If deemed unsafe to do so, the transporting officer may elect to return to HPD or request further direction from the above supervisors.

(c) Transport officers shall not enter the prisoner confinement areas in an attempt to stop an assault or prevent an escape attempt without assistance from additional officers.

(d) After the mitigation of the emergency, it shall be the responsibility of the transporting officer to complete the transportation and update the Watch Commander as appropriate.

In the event of an escape, a serious injury caused by an assault, or a medical emergency, the transporting officer(s) shall:

(a) Advise dispatch of the emergency and request assistance deemed necessary.

(b) Shall not chase after an escapee or go into the prisoner's confined area without assistance from other Officers.

(c) Advise radio of the escape and, if possible, set up a perimeter for responding units.

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(d) The Watch Commander shall be notified as soon as possible of the circumstances and updated on the prisoner's condition as necessary.

(e) It will be the transporting officer's responsibility to document the incident, and then forward the report to the Watch Commander and Jail Supervisor by the end of their shift.

If a fire is started on the transportation vehicle, the transporting officer(s) shall:

(a) Advise dispatch of the emergency and request Police/Fire assistance.

(b) Pull the transportation vehicle over and stop.

(c) Open up emergency doors and have prisoners exit the transportation vehicle and lie down in a safe area in a felony prone position. If a prisoner escapes, follow escape procedures.

(d) Wait for assistance before moving or doing anything else with prisoners.

(e) If the fire is extinguished and the fire department has cleared the transportation vehicle for use (with the final approval of the transporting officer(s)), the prisoners can be placed back into the vehicle for transport. If the transportation vehicle is deemed unsafe to continue, the transporting officer(s) will request additional assistance as necessary to safely transport the prisoners.

(f) The Watch Commander shall be advised immediately of the circumstances surrounding the emergency.

In the event of a collision, the transporting officer(s) shall do the following:

(a) Immediately advise dispatch and request whatever assistance is deemed necessary.

(b) If it is an injury collision, the transporting officer(s) shall follow the steps outlined in the treatment for medical emergencies.

(c) In non-injury collisions the prisoners will be kept in their secured area unless the transporting officer(s) believe it would be a hazard to have them remain in the vehicle.

(d) If the prisoners are removed from the transportation vehicle, they shall be taken to a safe area, and then placed in a prone position until other Officers arrive to assist.

(e) Reports shall be taken by the agency having jurisdiction over the location where the collision occurred. In the case of an involved fatality, the Traffic Bureau will also investigate the collision independently.

900.27.8 STAFFING DURING TRANSPORT

Under normal conditions, the minimum staffing for transportation vehicles operated within the city limits shall be two professional staff or one sworn transport officer(s). In the case of an emergency, the transportation vehicle may be operated within the city limits by one professional staff transport officer, provided adequate personnel are available at the final destination to assist with off-loading

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of prisoners. Transportation outside of the city limits may be accomplished by one sworn transport officer, two professional staff transport officers who have completed training in compliance with this policy above, or by one professional staff transport officer accompanied in the same vehicle by a sworn officer. Any exceptions to these options shall be approved by the Watch Commander.

900.27.9 TRANSPORTATION OF PRISONERS / RESPONSIBILITIES OF OFFICER
Whenever a prisoner is to be transported from the field or from one facility to another facility by a member of this Department, the transporting officer shall be responsible for the following:

(a) Verify the identity of each prisoner to be transported matches the booking paperwork.

(b) Ensure that all pertinent documentation accompanies the prisoner, such as copies of booking forms, medical records when appropriate, itemized list of prisoner's property, warrant copies, etc.

(c) Ensure that any known threat or danger the prisoner may pose, such as escape risk, suicide potential, or medical condition, is recorded on the prisoner's booking documentation and is transported with the prisoner to the next facility. The transporting officer shall ensure such threat or danger is communicated to intake personnel at the facility.

(d) Ensure all prisoners delivered to the facility are appropriately restrained until otherwise instructed by the receiving custody official.

(e) Ensure all firearms and other weapons not allowed within the custody facility are appropriately secured before the prisoner is removed from the vehicle.

(f) Obtain documentation confirming the transfer of custody, including the name of the receiving custody official. (Booking Sheet)

900.28 REVISIONS
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Detention Facility

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Custodial Searches

901.1 PURPOSE AND SCOPE

Refer to the HPD Detention Facility policy.

901.1.1 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.

901.1.2 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

901.2 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.

901.3 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.

901.4 SEARCHES AT POLICE FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to the Hayward Police Department facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

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Custodial Searches

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.

901.4.1 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 Hayward Police Department identification number and information regarding how and when the property may be released.

901.4.2 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.

901.5 STRIP SEARCHES

No individual in temporary custody at any Hayward 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.

(b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.

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1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.

(c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).

(d) The individual's actions or demeanor.

(e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

901.5.1 STRIP SEARCH PROCEDURES

Strip searches at Hayward 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.
8. The place at which the search was conducted.
9. A list of the items, if any, that were recovered.

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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.

901.5.2 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.

901.6 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.

901.7 TRAINING

The Personnel and Training Administrator shall ensure members have training that includes (28 CFR 115.115):

(a) Conducting searches of cross-gender individuals.

(b) Conducting searches of transgender and intersex individuals.

(c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

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901.8 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):

(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.

901.9 REVISIONS

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Prisoner Transportation

902.1 PURPOSE AND SCOPE

The purpose of this policy is to establish standards and procedure for the transportation of prisoners. Portions of this topic may be contained in other sections of this Manual.

902.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 70.1.1, 70.1.2, 70.1.3, 70.1.4, 70.1.5, 70.1.6, 70.1.7, 70.1.8, 70.2.1, 70.3.1, 70.3.2, 70.3.3, 70.4.1, 70.5.1

902.2 SEARCHING PRISONERS / DETAINEES

Officers who arrest or detain individuals must control the situation with the tools provided within the law. Officers must stay well versed on the current status of the search of persons and act within the law.

(a) Prior to detaining or transporting any individual in a police vehicle, officers shall conduct an appropriate search of that individual for contraband or weapons.

(b) Each time a prisoner comes into the transporting officer's custody, including transfers from one patrol unit to another, the receiving transport officer must search the prisoner.

902.2.1 SEARCH OF TRANSPORT VEHICLE

Officers involved in prisoner transportation must develop a routine of searching the patrol or transport vehicle to assure that prisoners do not have access to weapons or contraband. In addition, a strict routine creates the ability of an officer to associate a found item of contraband or weapon to a specific prisoner.

(a) A patrol officer shall search the prisoner area of his or her vehicle at the beginning of each shift and following the transportation of a prisoner.

(b) Officers engaged in prisoner transportation shall search the transport vehicle prior to loading any prisoner and search again following the removal of prisoners. Officers shall document this procedure in their associated police report memorializing the transport.

Weapons, contraband or personal property found in the prisoner compartment of a vehicle shall be booked into evidence and the appropriate report completed.

Officers involved in special or long distance prisoner transportation should inspect the vehicle before use to assure it is safe and appropriately equipped for the mission.

902.3 PROCEDURES - TRANSPORTING BY VEHICLE

Officers should ensure the prisoner is as comfortable as practicable, given the length of the trip being made, and yet secure the prisoner to the maximum degree, under the circumstances. Officers shall handcuff and secure in the rear passenger compartment all prisoners whom they transport in a van/bus or patrol vehicle that has a security screen, unless circumstances are such that handcuffing is clearly not practicable. When an officer transports a prisoner in a vehicle without

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a security screen, the prisoner should be seated in the rear seat and strapped in with a seat belt. The assisting officer shall sit adjacent to the prisoner in the rear seat. Physically resistive or multiple prisoners should only be transported in vehicles equipped with a security screen.

No female arrestee who is in labor shall be handcuffed or restrained by the wrists, ankles or both unless it is reasonably necessary for the safety of the arrestee, officers or others (Penal Code § 6030).

Officers shall seatbelt prisoners, unless circumstances are such that seat belting is clearly not practicable.

902.3.1 CONTROL OF PRISONERS DURING TRANSPORT

When transporting a prisoner(s), officers shall have visual contact with them. Transporting officers shall not deviate from their route during the transportation of a prisoner, unless an emergency arises. If an emergency does arise, the prisoner may be allowed to exit the vehicle only in extreme situations and then only under close supervision and security. The transporting officer must use only facilities that he/she feels are safe, secure, and under constant visual observation.

Officers must take care to allow the prisoners reasonable opportunities to use toilet facilities prior to transport. Normally, the need for toilet facilities is not necessary during transport from the point of arrest to the booking point. The need for toilet facilities shall not constitute an emergency as described in this section. However, an urgent situation arising during a prisoner transport shall be assessed by the transporting officer, who, depending upon the circumstances and length of the transport, may elect to deviate or stop for toilet facilities.

During long distance prisoner transportation, if a meal is necessary, the dining location is to be chosen randomly. Under normal circumstances, officers should not take prisoners into public restaurants. When practical, officers should take the prisoner to another detention center to obtain a meal.

When the use of a public restaurant is absolutely necessary, the transporting officer must never tell the location to anyone other than those having direct involvement with the prisoner transfer. Officers should use drive-through restaurants whenever possible.

The primary duty of the transporting officer is the safe delivery of the prisoner in his/her care, and to protect the prisoner from injury and escape opportunities. Only where the risk to a third party is clear and grave, and there is no risk to the prisoner, may the officer stop to render emergency assistance or engage in any law enforcement activity.

Officers transporting prisoners should never participate in a pursuit, roadblock, or other situation that might create a risk of harm to his/her prisoner.

902.3.2 PRISONER COMMUNICATION DURING TRANSPORT

Security of the transportation function requires that a prisoner not exercise the right to communicate with his/her attorney, clergy, family, and/or others during transportation. Except as

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provided by law, a prisoner shall not be allowed to make any phone calls or communicate with the outside while awaiting transport.

In special circumstances, the on-duty Watch Commander can approve an exception to this policy. If an exception is made, the transporting officer is responsible for monitoring the communication.

902.3.3 TRANSPORTATION OF PRISONERS

Generally and when circumstances permit, prisoners of the opposite sex, or adult and juvenile prisoners, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating prisoners is not practicable, officers should be alert to inappropriate physical or verbal contact between them and take appropriate action as necessary.

Whenever a prisoner is to be transported from the field or from one facility to another facility by a member of this Department, the transporting officer shall be responsible for the following:

(a) Verify that the identity of each prisoner to be transported matches the corresponding booking paperwork.

(b) Ensure that all pertinent documentation accompanies the prisoner, such as copies of booking forms, medical records when appropriate, an itemized list of the prisoner's property, warrant copies, etc. This documentation shall be delivered to the receiving custody personnel.

(c) Ensure that any known threat or danger the prisoner may pose, such as escape risk, suicide potential, or medical condition, is recorded on the prisoner's booking documentation and is transported with the prisoner to the next facility. The transporting officer shall ensure such threat or danger is communicated to intake personnel at the facility.

(d) Ensure all prisoners delivered to the facility are appropriately restrained until otherwise instructed by the receiving custody official.

(e) Ensure all firearms and other weapons not allowed within the custody facility are appropriately secured before the prisoner is removed from the vehicle.

(f) Obtain documentation confirming the transfer of custody, including the name of the receiving custody official. (Booking Sheet)

902.3.4 ESCAPE OF PRISONER DURING TRANSPORT

If an escape occurs, the transporting officer must immediately advise the Communications Center dispatcher (if within radio transmission coverage) or the nearest local authority of the following:

(a) Officer's Call Sign

(b) The Location of Escape

(c) The Escapee's Description

(d) The Charge The Escapee Was In Custody On

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(e) Any Known Accomplice

(f) Whether The Escapee and/or Accomplices Are Armed

(g) Method Of Flight Including Vehicle Description

(h) Direction Of Flight

If the escape occurs within radio range of the Department's Communications Center, the officer must request assistance from on duty patrol units and/or local law enforcement agencies. If the escape occurs beyond radio range of the Department's communication system, the officer must, as soon as practicable, request that the responding agency notify the Hayward Communications Center. The Hayward Communications Center must then notify the Watch Commander. The initial law enforcement response to assist and search for an escaped prisoner should be coordinated by the supervising officer of the agency having jurisdiction over the location where the escape occurred, or is believed to have occurred. The transporting officer is responsible for any additional prisoners he/she is transporting. Therefore, in the event of an escape during transport, he/she should remain with the transport vehicle and any remaining prisoners. Extenuating circumstances may dictate a different course of action.

Upon making the above notifications, and as soon as practicable, the officer should transport the remaining prisoners to their destination, or the nearest detention facility, as circumstances dictate.

Officers must complete all necessary reports and procedures before reporting off duty. If the escape occurs during transport to County Jail on a fresh charge, the officer may include the escape charges and information in the original crime report. If the prisoner is being transported pursuant to a warrant and an escape occurs, a new crime report will be necessary.

Officers must follow all Department policies and procedures applicable to the Use of Force regarding any attempt to prevent an escape or to recapture an escapee and the reporting of such an event. When the escape occurs in another area of jurisdiction, the authority of the transporting officer to take action in recovering the prisoner is dependent upon the powers officers have in that jurisdiction. Depending upon the State, these will include peace officer powers in the State, within a mutual aid area, or only within the specific jurisdiction from which the officer comes.

902.3.5 USE OF RESTRAINTS

Generally, any prisoner should be appropriately restrained to lessen the chance of escape or assault on others. When transporting prisoners for an extended distance or period of time, the officer should consider leg restraints and belly chains as a form of restraint.

902.4 SPECIAL TRANSPORT SITUATIONS

902.4.1 TRANSPORT OF PRISONERS WITH ILLNESS OR INJURY

Officers must take any prisoner who receives an injury during an arrest situation or while in custody, to a local hospital for treatment and obtain a medical release prior to transporting the prisoner to a detention facility.

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Prisoner Transportation

In the event a prisoner requires emergency medical assistance during transportation, the transporting officer shall take appropriate actions to provide medical assistance as necessary and practicable. This may include emergency medical assistance being summoned to the prisoner's location, or deviation to an emergency medical facility. This may also require the prisoner to be transported to the medical facility via ambulance. When practicable, officers should make every effort to ensure medical aid is rendered inside a secured custody facility or area.

Prior to transporting, officers shall take into consideration a prisoner's mental or medical condition and physical disabilities when selecting a transport vehicle or ambulance, restraint devices and seating position. Non-ambulatory prisoners or those requiring wheelchairs, crutches, or prosthetic appliances may not require the use of restraining devices in all instances. However, personnel must take every precaution to ensure the safety of employees and the prisoner.

During transportation, a sick or injured prisoner should wear handcuffs or other appropriate restraints as practicable, unless the handcuffs or other restraint could further compound the injuries. When this is the case, the officer shall notify an on duty supervisor who may assign an additional officer to assist with the transportation, or take other/additional security precautions.

In the event a prisoner requires emergency medical assistance while in the Hayward Police Department jail, jail staff shall take appropriate actions to provide medical assistance until emergency medical workers arrive. This may also require the prisoner to be transported to the medical facility via ambulance or police vehicle based on the circumstances.

When returning a prisoner back to the jail, the transporting officer must return copies of all hospital paperwork, with attending physicians'/nurse's signatures, to the jail staff. Officers will also attach a copy of the medical release form to their report.

902.4.2 SECURITY OF PRISONERS AT MEDICAL CARE FACILITIES

When taking a prisoner to a medical care facility or local hospital for any reason including treatment, examination or admission, officers must ensure that the prisoner does not have access to other patients and that he/she is always under the control of the transporting officer. Only under unusual circumstances should the prisoner be allowed out of the transporting officer's sight. If the prisoner requires admission to the hospital, the transporting employee must notify the on duty supervisor of the circumstances. Officers assigned to guard the prisoner shall not become lax and refrain from fraternizing with him/her at any time. Any unusual occurrance should be audio recorded.

The transporting officer must not leave the medical facility or hospital until he/she receives relief from another officer, or if a supervisor orders otherwise. Should the prisoner be required to remain in a hospital or medical facility as an admitted patient, the supervisor will notify the Watch Commander and facilitate staffing rotation so that the security of the prisoner is maintained during the entire length of stay.

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The transporting officer should remove the prisoner's restraints only when it is absolutely necessary, when a cover officer is present, and only when medical staff requests it in furtherance of life-saving measures.

Officers must not allow visitors, including telephone contacts to or by the prisoner. Officers must attach a copy of the medical release form (signed by the attending physician) to the arrest report. Prior to reinitiating transportation, officers shall search the prisoner, police vehicle, and, if necessary, reapply restraints.

902.4.3 SPECIAL TRANSPORT SITUATIONS

The unusual circumstances surrounding situations such as funerals and visits to hospitals provide extraordinary opportunities to a prisoner for personal contact, escape, or infliction of injury on his/herself or others. Normally these special transport details are when a medical emergency demands the immediate care of the prisoner.

Special precautions and security measures should be stipulated and employed. To accomodate this, the prisoner must always wear handcuffs. Leg restraints should also be used as appropriate. If the transporting officer must remove the handcuffs, he/she must do so with all necessary precautions. In most cases, supervisors should assign at least two officers to these details. Officers must not allow prisoners to have unsupervised contact with anyone during these situations.

902.5 REVISIONS

Enacted: August 21, 2009

Revised: August 13, 2010

Revised: April 25, 2012

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Revised: May 23, 2016

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Prison Rape Elimination

903.1 PURPOSE AND SCOPE

This policy provides guidance for complying with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect, and respond to sexual abuse, harassment, and retaliation against individuals in custody in the Hayward Police Department Temporary Holding Facilities (28 CFR 115.111; 15 CCR 1029).

903.1.1 DEFINITIONS

Definitions related to this policy include:

Intersex - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development (28 CFR 115.5).

Sexual abuse - Any of the following acts, if the detainee does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse (28 CFR 115.6; 15 CCR 1006):

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation

Sexual abuse also includes abuse by a staff member, contractor, or volunteer as follows, with or without consent of the individual in custody:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire

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- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described above
- Any display by a staff member, contractor, or volunteer of the staff member's uncovered genitalia, buttocks, or breast in the presence of an individual in custody
- Voyeurism by a staff member, contractor, or volunteer

Sexual harassment - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an individual in custody that are directed toward another; repeated verbal comments or gestures of a sexual nature to an individual in custody by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6; 15 CCR 1006).

Transgender - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

903.2 POLICY

The Hayward Police Department has zero tolerance toward all forms of sexual abuse and sexual harassment (28 CFR 115.111). The [Department/Office] will not tolerate retaliation against any person who reports sexual abuse or sexual harassment or who cooperates with a sexual abuse or sexual harassment investigation.

The Hayward Police Department will take immediate action to protect those in its custody who are reasonably believed to be subject to a substantial risk of imminent sexual abuse (28 CFR 115.162; 15 CCR 1029).

903.3 PREA COORDINATOR

The Chief of Police shall appoint an upper-level manager with sufficient time and authority to develop, implement, and oversee [department/office] efforts to comply with PREA standards in the Hayward Police Department Temporary Holding Facilities (28 CFR 115.111). The PREA Coordinator's responsibilities shall include:

(a) Developing and maintaining procedures to comply with the PREA Rule.

(b) Ensuring that any contract for the confinement of individuals in custody includes the requirement to adopt and comply with applicable PREA standards and the PREA Rule, including the obligation to provide incident-based and aggregated data, as required in 28 CFR 115.187 (28 CFR 115.112).

(c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect those in custody from sexual abuse (28 CFR 115.113; 15 CCR 1029). This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year.

(d) Developing methods for staff to privately report sexual abuse and sexual harassment of individuals in custody (28 CFR 115.151).

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(e) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators, and [department/office] leadership to an incident of sexual abuse (28 CFR 115.165).

(f) Ensuring a protocol is developed for investigating allegations of sexual abuse in the Temporary Holding Facility. The protocol shall include (28 CFR 115.121; 28 CFR 115.122):

1. Evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/ Adolescents" or a similarly comprehensive and authoritative protocol.

2. A process to ensure a criminal or administrative investigation is completed on all allegations of sexual abuse or sexual harassment.

3. A process to document all referrals to other law enforcement agencies.

4. Access to forensic medical examinations, without financial cost, for all victims of sexual abuse where appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The efforts to provide SAFEs or SANEs shall be documented.

5. In accordance with security needs, provisions to give, to the extent available, individuals in custody access to victim advocacy services if the individual is transported for a forensic examination to an outside hospital that offers such services.

(g) Ensuring that individuals with limited English proficiency and disabilities have an equal opportunity to understand and benefit from efforts to prevent, detect, and respond to sexual abuse and sexual harassment. This includes, as appropriate, access to interpreters and written materials in formats or through methods that provide effective communication to those with disabilities (e.g., limited reading skills, intellectual, hearing, or vision disabilities) (28 CFR 115.116).

1. The agency shall not rely on other individuals in custody for assistance except in limited circumstances where an extended delay in obtaining an interpreter could compromise the individual's safety, the performance of first-response duties under this policy, or the investigation of an individual's allegations of sexual abuse, harassment, or retaliation.

(h) Publishing on the [department/office]'s website:

1. Information on how to report sexual abuse and sexual harassment on behalf of an individual in custody (28 CFR 115.154).

2. A protocol describing the responsibilities of the [Department/Office] and any other investigating agency that will be responsible for conducting sexual abuse or sexual harassment investigations (28 CFR 115.122).

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(i) Establishing a process that includes the use of a standardized form and set of definitions to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under this agency's direct control (28 CFR 115.187; 34 USC § 30303; 15 CCR 1041).

1. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by DOJ, or any subsequent form developed by DOJ and designated for lockups.

2. The data shall be aggregated at least annually.

(j) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 for all Temporary Holding Facilities used to house individuals in custody overnight (28 CFR 115.193).

(k) Ensuring contractors or others who work in the Temporary Holding Facility are informed of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment (28 CFR 115.132).

(l) Ensuring that information for uninvolved incarcerated persons, family, community members, and other interested third parties to report sexual abuse or sexual harassment is publicly posted at the facility (15 CCR 1029).

903.4 REPORTING SEXUAL ABUSE, HARASSMENT, AND RETALIATION

Individuals in custody may make reports to any staff member verbally, in writing, privately, or anonymously of any of the following (28 CFR 115.151; 15 CCR 1029):

- Sexual abuse
- Sexual harassment
- Retaliation by other individuals in custody or staff for reporting sexual abuse or sexual harassment
- Staff neglect or violation of responsibilities that may have contributed to sexual abuse or sexual harassment

Individuals in custody shall be notified of the [department/office] zero-tolerance policy regarding sexual abuse and sexual harassment, and of at least one way to report abuse or harassment to a public or private entity that is not part of the [Department/Office] and that is able to receive and immediately forward a report of sexual abuse and sexual harassment to agency officials. This allows the individual to remain anonymous (28 CFR 115.132; 28 CFR 115.151).

903.4.1 MEMBER RESPONSIBILITIES

[Department/Office] members shall accept reports from individuals in custody and third parties and shall promptly document all reports (28 CFR 115.151; 15 CCR 1029).

All members shall report immediately to the Watch Commander any knowledge, suspicion, or information regarding:

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(a) An incident of sexual abuse or sexual harassment that occurs in the Temporary Holding Facility.

(b) Retaliation against individuals in custody or the member who reports any such incident.

(c) Any neglect or violation of responsibilities on the part of any [department/office] member that may have contributed to an incident or retaliation (28 CFR 115.161).

No member shall reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment and investigation decisions.

903.4.2 WATCH COMMANDER RESPONSIBILITIES

The Watch Commander shall report to the [department/office]'s designated investigators all allegations of sexual abuse, harassment, retaliation, neglect, or violations leading to sexual abuse, harassment, or retaliation. This includes third-party and anonymous reports (28 CFR 115.161).

If the alleged victim is under the age of 18 or considered a vulnerable adult, the Watch Commander shall also report the allegation as required under mandatory reporting laws and [department/office] policy.

Upon receiving an allegation that an individual in custody was sexually abused while confined at another facility, the Watch Commander shall notify the head of the facility or the appropriate office of the agency where the alleged abuse occurred. The notification shall be made as soon as possible but no later than 72 hours after receiving the allegation. The Watch Commander shall document such notification (28 CFR 115.163).

If an alleged victim is transferred from the Temporary Holding Facility to a jail, prison, or medical facility, the [Department/Office] shall, as permitted by law, inform the receiving facility of the incident and the individual's potential need for medical or social services, unless the individual requests otherwise (28 CFR 115.165).

903.5 INVESTIGATIONS

The [Department/Office] shall promptly, thoroughly and objectively investigate all allegations, including third-party and anonymous reports, of sexual abuse or sexual harassment. Only investigators who have received [department/office]-approved special training shall conduct sexual abuse investigations (28 CFR 115.171).

903.5.1 FIRST RESPONDERS

The first officer to respond to a report of sexual abuse or sexual assault shall (28 CFR 115.164):

(a) Separate the parties.

(b) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.

(c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy

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physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

(d) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

If the first responder is not an officer the responder shall request that the alleged victim not take any actions that could destroy physical evidence and should then notify a law enforcement staff member (28 CFR 115.164).

903.5.2 INVESTIGATOR RESPONSIBILITIES

Investigators shall (28 CFR 115.171):

(a) Gather and preserve direct and circumstantial evidence, including any available physical and biological evidence and any available electronic monitoring data.

(b) Interview alleged victims, suspects, and witnesses.

(c) Review any prior complaints and reports of sexual abuse involving the suspect.

(d) Conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

(e) Assess the credibility of the alleged victim, suspect, or witness on an individual basis and not by the person's status as a detainee or a member of the Hayward Police Department.

(f) Document in written reports a description of physical, testimonial, documentary, and other evidence, the reasoning behind any credibility assessments, and investigative facts and findings.

(g) Refer allegations of conduct that may be criminal to the District Attorney for possible prosecution, including any time there is probable cause to believe an individual in custody sexually abused another individual in custody in the Temporary Holding Facility (28 CFR 115.178).

(h) Cooperate with outside investigators and remain informed about the progress of any outside investigation.

903.5.3 ADMINISTRATIVE INVESTIGATIONS

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. The departure of the alleged abuser or victim from the employment or control of this [department/office] shall not be used as a basis for terminating an investigation (28 CFR 115.171).

903.5.4 SEXUAL ASSAULT AND SEXUAL ABUSE VICTIMS

No individual in custody who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation (28 CFR 115.171(e)).

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Victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.182).

903.5.5 CONCLUSIONS AND FINDINGS

All completed investigations shall be forwarded to the Chief of Police, or if the allegations may reasonably involve the Chief of Police, to the City Manager. The Chief of Police or the City Manager shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.172).

All personnel shall be subject to disciplinary sanctions up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for [department/office] members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history, and the sanctions imposed for comparable offenses by other members with similar histories (28 CFR 115.176).

All terminations for violations of this policy, or resignations by members who would have been terminated if not for their resignation, shall be criminally investigated unless the activity was clearly not criminal and reported to any relevant licensing body (28 CFR 115.176).

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with individuals in custody and reported to any relevant licensing bodies (28 CFR 115.177). The Chief of Police shall take appropriate remedial measures and consider whether to prohibit further contact with individuals in custody by a contractor or volunteer.

903.6 RETALIATION PROHIBITED

All individuals in custody and members who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation (28 CFR 115.167). If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual.

The Watch Commander or the authorized designee shall employ multiple protection measures, such as housing changes or transfers for victims or abusers, removal of alleged abusers from contact with victims, and emotional support services for individuals in custody or members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

The Watch Commander or the authorized designee shall identify a staff member to monitor the conduct and treatment of individuals in custody or members who have reported sexual abuse and of those who were reported to have suffered sexual abuse. The staff member shall act promptly to remedy any such retaliation. In the case of individuals in custody, such monitoring shall also include periodic status checks.

903.7 REVIEWS AND AUDITS

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903.7.1 INCIDENT REVIEWS

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The review should occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials and seek input from line supervisors and investigators (28 CFR 115.186).

The review shall (28 CFR 115.186):

(a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.

(b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.

(c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.

(d) Assess the adequacy of staffing levels in that area during different shifts.

(e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The review team shall prepare a report of its findings, including any determinations made pursuant to this section and any recommendations for improvement. The report shall be submitted to the Chief of Police and the PREA Coordinator. The Chief of Police or the authorized designee shall implement the recommendations for improvement or shall document the reasons for not doing so (28 CFR 115.186).

903.7.2 DATA REVIEWS

The facility shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The review should include, as needed, data from incident-based documents, including reports, investigation files and sexual abuse incident reviews (28 CFR 115.187).

The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training. An annual report shall be prepared that includes (28 CFR 115.188):

(a) Identification of any potential problem areas.

(b) Identification of any corrective actions taken.

(c) Recommendations for any additional corrective actions.

(d) A comparison of the current year's data and corrective actions with those from prior years.

(e) An assessment of the [Department/Office]'s progress in addressing sexual abuse.

The report shall be approved by the Chief of Police and made readily available to the public through the [department/office] website or, if it does not have one, through other means. Material

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may be redacted from the reports when publication would present a clear and specific threat to the safety and security of the Temporary Holding Facility. However, the nature of the redacted material shall be indicated.

All aggregated sexual abuse data from Hayward Police Department facilities and private facilities with which it contracts shall be made readily available to the public at least annually through the [department/office] website or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.189).

903.8 RECORDS

The [Department/Office] shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the [Department/Office], plus five years (28 CFR 115.171).

All other data collected pursuant to this policy shall be securely retained for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise (28 CFR 115.189).

903.9 TRAINING

All [department/office] members and contractors who may have contact with individuals in custody shall receive [department/office]-approved training on the prevention and detection of sexual abuse and sexual harassment within this facility. The Personnel and Training Administrator shall be responsible for developing and administering this training as appropriate, covering at a minimum (28 CFR 115.131):

- The [Department/Office]'s zero-tolerance policy and the right of individuals in custody to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- The dynamics of sexual abuse and harassment in confinement settings, including which individuals in custody are most vulnerable.
- The right of individuals in custody and staff members to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- Detecting and responding to signs of threatened and actual abuse.
- Communicating effectively and professionally with all individuals in custody.
- Compliance with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Investigators assigned to sexual abuse investigations shall also receive training in conducting such investigations in confinement settings. Training should include (28 CFR 115.134):

- Techniques for interviewing sexual abuse victims.
- Proper use of *Miranda* and *Garrity* warnings.
- Sexual abuse evidence collection in confinement settings.

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- Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Personnel and Training Administrator shall maintain documentation that employees, volunteers, contractors, and investigators have completed required training and that they understand the training. This understanding shall be documented through individual signature or electronic verification.

All current [department/office] members who may have contact with individuals in custody shall be trained within one year of the effective date of the PREA standards. The agency shall provide annual refresher information to all such members to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.

903.10 REVISIONS

April 1, 2021

March 9, 2023

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MANDATORY OVERTIME - JAIL

904.1 POLICY STATEMENT AND PURPOSE

It is the policy of the Hayward Police Department to fill vacant jail positions or to meet jail staffing needs by utilizing volunteers to perform overtime work. Mandatory overtime may be necessary to meet minimum staffing commitments.

The purpose of this procedure is to set guidelines for using mandatory overtime to fill Jail vacancies.

904.2 PROCEDURES

Below are procedures regarding Posting of Overtime Assignments and Involuntary Overtime Assignments.

904.3 POSTING OF OVERTIME ASSIGNMENTS AND SIGN-UP

(a) The supervisor in charge of scheduling shall post all known overtime assignments for a minimum of one week whenever possible or as soon as the department becomes aware of the assignment.

(b) If an employee wishes to cancel an optional overtime shift they must do so with at least 72 hours notice. Mandatory overtime shifts may not be canceled unless the employee finds replacement coverage.

(c) Employees signing up for an optional overtime slot may choose to work a partial shift (8 to 12 hours) but shall note the hours they are electing to work at the time of sign up. Employees who agree to work a full shift will have priority to the shift until 1 week before the posted shift.

904.4 VOLUNTARY OVERTIME ASSIGNMENTS

During the first week of posting employees may sign up for one overtime shift. Sign-ups must maintain equitable distribution per MOU section 4.06. After the first 7 days of posting employees may sign up for more shifts as they're available. Employees wishing to voluntarily sign up for a "mandatory" overtime shift will not be considered exempt from being rotationally assigned mandatory shifts should they become necessary.

904.5 INVOLUNTARY OVERTIME ASSIGNMENTS

(a) When the overtime assignments cannot be filled by volunteers, employees will be assigned mandatory overtime to meeting staffing commitments. Involuntary overtime assignments shall be made on a rotating basis by inverse seniority except when precluded by the operational needs of the Department or in cases of emergency. Mandatory overtime distributions shall be fair, accomplished in an expeditious manner, and will be assigned on the first day of the employees work week immediately preceding the mandatory overtime shift.

(b) Mandatory overtime selections shall be made in inverse seniority order. The Jail Supervisors will maintain the mandatory overtime rotation list for their assigned team. As Community Service Officers ("CSOs")/Jail Supervisors are assigned from this list, their names will be checked off

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until the entire list of names is exhausted, at which time the process repeats itself. This list is re-established at the beginning of each six-month shift cycle.Dayshift will work Dayshift overtime, and Midnight shift will work Midnight overtime.

(c) Except is cases of operational necessity or emergency, selection adjustments may be made for scheduling conflicts such as previously scheduled overtime, training commitments, unique hardships or conflicts, or a previously planned event where the CSO/Jail Supervisor will suffer a monetary loss or hardship if they work the mandatory overtime. The employee will be asked to provide evidence of monetary loss or hardship. In case of a scheduling conflict, the supervisor may assign the next CSO/Jailer on the inverse seniority list. The CSO/Jail Supervisor with the scheduling conflict will then be the next Officer to be assigned mandatory overtime.

(d)Except for the reasons set forth in paragraph (c) above, no CSO/Jail Supervisor is exempt from working his/her share of mandatory overtime. Accordingly, all CSOs/Jail Supervisors should have contingency plans in place for childcare or other family care needs.

(e) The supervisor from the opposing shift shall monitor the vacancies and overtime sign-up list for any shifts that need to be filled by their team. Should any positions on the opposing shift remain unfilled, that supervisor shall assign the appropriate number of CSOs/Jail Supervisors from their team to work any remaining, mandatory overtime and update the overtime rotation log for their team.The affected CSOs/Jail Supervisors shall be notified of the specific shift they are required to on the first workday of their shift rotation immediately preceding the overtime.

904.6 SAME DAY VACANCIES

In the event there is an unforeseen absence, attempts will be made to fill the vacancy. If there are not volunteers, Officers from off going shifts may be held over as well as Officers from incoming shifts may be called in early. Additionally, CSOs/Jail Supervisors working in optional, auxiliary assignments may be utilized to fill the vacancy.

904.7 REVISIONS

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Chapter 10 - Personnel

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Recruitment and Selection

1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Hayward Police Department and that are promulgated and maintained by the Department of Human Resources.

1000.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.3.1, 31.1.1, 31.2.2, 32.1.2, 32.1.3, 32.2.1, 32.2.6

1000.1.2 RECRUITMENT

The Personnel and Training Office in partnership with the City of Hayward Human Resources Department is responsible for the recruitment and selection of Department personnel. Together they will carry out the Recruitment and Retention Plan, as outlined in the Departmental Training Plan. The Personnel and Training Office and Recruitment Team will evaluate recruitment and retention progress every three years and revise the plan as needed.

1000.2 APPLICANT QUALIFICATIONS

Candidates for job openings will be selected based on merit, ability, competence and experience.

All peace officer candidates must meet the minimum standards described in California Government Code § 1031 in addition to the employment standards established by this department.

1000.3 TESTING, INTERVIEWS AND SCREENING

Personnel involved in the testing, interviewing, and screening processes for peace officers and public safety dispatchers should utilize the standards for such processes developed and approved by California POST Personnel assigned or contracted to conduct background investigations for peace officers and public safety dispatchers shall have successfully completed a POST approved background investigations course.

Positions other than peace officer or public safety dispatcher should use the testing, interviewing and screening processes developed and maintained by the City of Hayward Human Resources Department. The cost of pre-employment testing and screening for all candidates is borne by the City. In addition, the City will pay for any fitness for duty examinations required for continued employment or as required by law.

1000.3.1 DECEPTION DETECTION

For a position in which a deception detection device is used, information gained from such device should not be used as the single determination for selection criteria, but should be used to weigh against other information or warrant further investigation.

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1000.4 POLICY

In accordance with applicable federal, state, and local law, the Hayward 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.

1000.5 RECRUITMENT

The Personnel and Training division should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy should include:

(a) Identification of racially and culturally diverse target markets.

(b) Use of marketing strategies to target diverse applicant pools.

(c) Expanded use of technology and maintenance of a strong Internet presence. This may include an interactive department website and the use of department-managed social networking sites, if resources permit.

(d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities and the military.

(e) Employee referral and recruitment incentive programs.

(f) Consideration of shared or collaborative regional testing processes.

The Personnel and Training division shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The Department should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of his/her status in the recruiting process.

1000.6 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] should employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

(a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)

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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) 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

(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

(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)

(j) Review board or selection committee assessment

1000.6.1 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).

1000.7 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 Hayward 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).

1000.7.1 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 (ICRAA) (15 USC § 1681d; Civil Code § 1786.16).

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1000.7.2 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).

1000.7.3 REVIEW OF SOCIAL MEDIA SITES

Due to the potential for accessing unsubstantiated, private or protected information, the Personnel and Training division shall not require candidates to provide passwords, account information or access to password-protected social media accounts (Labor Code § 980).

The Personnel and Training division should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, Internet-based searches and/or review information from social media sites to ensure that:

(a) The legal rights of candidates are protected.

(b) Material and information to be considered are verified, accurate and validated.

(c) The Department fully complies with applicable privacy protections and local, state and federal law.

Regardless of whether a third party is used, the Personnel and Training division should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

1000.7.4 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 reference the 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 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 shall be included in the candidate's background investigation file (11 CCR 1953).

The background investigator shall document proof of verification of qualification for peace officer appointment on the Verification of Qualification for Peace Officer Appointment form and forward to the Support Services Division Commander for final review and submission to POST (11 CCR 1953).

1000.7.5 RECORDS RETENTION

The background report and all supporting documentation shall be maintained for a minimum of four years and in accordance with the established records retention schedule (Government Code § 12946; 11 CCR 1953).

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1000.7.6 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 Hayward Police Department or is transferred to a different department within the City as provided in 11 CCR 1953(f).

1000.7.7 INVESTIGATOR TRAINING
Background investigators shall complete POST-certified background investigation training prior to conducting investigations (11 CCR 1953; 11 CCR 1959).

1000.8 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.

1000.9 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.

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1000.9.1 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

(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)

(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)).

1000.9.2 STANDARDS FOR COMMUNICATIONS OPERATOR

Candidates shall satisfy the POST selection requirements, including (11 CCR 1956):

(a) A verbal, reasoning, memory and perceptual abilities assessment (11 CCR 1957).

(b) An oral communication assessment (11 CCR 1958).

(c) A medical evaluation (11 CCR 1960).

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1000.10 PROBATIONARY PERIODS

The Support Services Division Commander should coordinate with the Hayward 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.

1000.11 REVISIONS

Enacted: December 17, 2007

Revised: July 8, 2009

Revised: February 7, 2010

Revised: May 23, 2016

Revised:March 3, 2017

Revised: May 5, 2017

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Revised: September 17, 2018

Revised: December 28, 2020

Revised: February 12, 2021

Revised: December 10, 2021

Revised: December 18, 2022

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Evaluation of Employees

1001.1 PURPOSE AND SCOPE

The Department's employee performance evaluation system is designed to record work performance for both the Department and the employee, providing recognition for good work and developing a guide for improvement.

1001.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 32.2.10, 33.8.3, 35.1.1, 35.1.2, 35.1.3, 35.1.4, 35.1.5, 35.1.6, 35.1.7, 35.1.8, 35.1.9

1001.2 POLICY

The Hayward utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, demotion and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to sex, race, color, national origin, religion, age, disability or other protected classes. Each evaluation will cover a specific period and should be based on performance during that period. The employee's immediate supervisor will complete each evaluation. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the immediate supervisor for their input. Failure to meet established performance standards is justification for an unsatisfactory rating.

All sworn and professional staff supervisory personnel shall be sent to a POST approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment.

1001.3 EVALUATION FREQUENCY AND EVALUATION PLANS

Non-probationary sworn and professional staff assigned to patrol, jail, and communications shall be evaluated at the conclusion of each shift cycle. At the beginning of the rating period, patrol sergeants shall meet individually with each officer under their supervision. The meeting shall address expectations, officer’s goals and objectives for that shift cycle, and career development. Officers should be encouraged to develop their own strategies that are geared towards fulfilling the mission of the Hayward Police Department and problem solving specific to their assigned areas of responsibility.

Non-probationary sworn and professional staff specially or administratively assigned shall be evaluated annually.

Professional and Sworn personnel are on probation for up to 2 years before being eligible for certification as permanent employees. An evaluation is completed monthly for all full-time professional personnel during the probationary period.

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Probationary sworn personnel are evaluated daily and weekly while assigned to the Field Training Program and quarterly for the duration of the probationary period. Sworn personnel, upon being promoted to a higher rank, will be evaluated quarterly for the duration of the probationary period.

1001.3.1 RESERVE OFFICER EVALUATIONS
Reserve Officer evaluations shall be completed by the Reserve's immediate supervisor consistent with Department' mandates of full-time sworn officer requirements. Refer to the Reserve Officers Policy.

1001.3.2 EVALUATIONS UPON TRANSFER OF ASSIGNMENTS
An evaluation shall be completed on all personnel (sworn & professional staff) whenever they are transferred to another assignment. If an employee was evaluated within three months of the transfer, then an evaluation upon transfer to another assignment is not necessary.

1001.4 SUPERVISORY NOTES AND OBSERVATION LOGS AS PREPATORY MATERIAL
A Supervisory Notes and Observations (SNO) log is a voluntary tool for supervisors to document employee performance that is either below or exceeding expectations within an evaluation period. Pursuant to this policy, SNO logs only serve as preparation material for employee performance evaluations. A SNO log shall not not be used to document anything other than employee performance, unless otherwise directed by the Chief of Police, or his/her designee.

When documenting formal discipline, supervisors shall follow the format described in the Standards of Conduct Policy. When documenting instances, such as, but not limited to line-up training, employee inspections, employee expectations and animal destruction, supervisors shall document the details of the event on a memorandum addressed to the Division Commander through the chain of command.

SNO logs are primarily used by the employee's direct supervisor. However, a supervisor managing the employee on an overtime shift or during a special event may complete a SNO log and forward it to the employee's direct supervisor. The SNO log shall be filled out in the following format:

(a) Introduction: Describe what is being documented.

(b) Policy & Performance Dimension: State the associated policy and performance dimension that is applicable to the performance.

(c) Situation: Describe the circumstances around the performance.

(d) Impact: Describe the impact that their performance can have on themselves, their coworkers, this organization and/or community members.

(e) Expectations: Describe what is expected of the employee if documenting performance that is below expectations. This section should be used to provide recommendations to remedy the issue.

Once thoroughly complete, supervisors are required to review and discuss completed SNO logs with the employee. The employee can voluntarily provide a response in written form on a separate

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memorandum within 30 days of issuance. Both the supervisor and the employee should sign the SNO log acknowledging its receipt. If the employee refuses to sign, that fact shall be noted on the SNO log and signed or initialed by the supervisee. A copy will be provided to the employee upon request at any time during the evaluation period.

At the end of each evaluation phase, the employee's direct supervisor has the option to memorialize the content from the SNO log into an employee's performance evaluation. It will be the responsibility of both the supervisor and the employee to discuss existing SNO logs and performance-related issues that in preparation for employee evaluations.

1001.4.1 STORAGE AND RETENTION OF SNO LOGS

SNO logs will be temporarily stored in the Division File until the end of the evaluation period. The Division File is a secured electronic folder with restricted access. Supervisors will have up to 30 days at the conclusion of the evaluation period to purge SNO logs from the Division File that have reached their purge date. In no circumstance, shall a SNO log be attached to a performance evaluation. Periodic checks of the Division File by managers shall be conducted to ensure that files are properly purged in accordance with this policy.

1001.5 PERFORMANCE EVALUATIONS FOR FULL-TIME PERMANENT STATUS PERSONNEL

Permanent employees are subject to two types of performance evaluations:

Regular - An Employee Performance Evaluation shall be completed at least once each year by the employee's immediate supervisor at the end of each calendar or fiscal year per the employee's Division Commander.

Other - An employee Performance Evaluation shall be completed when it is time for a permanent status recommendation or for a pay step increase.

1001.5.1 ASSIGNMENT TRANSFERS

There are instances where employees transfer to and from special assignments at any time during an evaluation period. As stated in the Evaluation of Employees Policy, the Division manager or his/her designee where the employee is transferring will determine whether the previous supervisor, the new supervisor or both will craft the performance evaluation.

1001.6 EMPLOYEE RATING CRITERIA

When completing the Employee Performance Evaluation, the rater will place a check mark in the column that best describes the employee's performance. The definition of each rating category is as follows:

Exceeds Expectations - Represents performance that is better than expected of a fully competent employee. It is superior to what is expected of a fully competent employee.

Meets Expectations - Is the performance of a fully competent employee. It means satisfactory performance that meets the standards required of the position.

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Below Expectations - Is a level of performance less than that expected of a fully competent employee and less than standards required of the position. A below expectations rating must be thoroughly discussed with the employee.

Not Observed - This box is to be checked if the rater has not observed the employee's performance in a particular area.

Space for written comments is provided at the end of the evaluation in the rater comments section. This section allows the rater to document the employee's strengths, weaknesses, and suggestions for improvement. Any rating under any job dimension marked unsatisfactory or outstanding shall be substantiated in the rater comments section.

1001.7 EVALUATION INTERVIEW

When the supervisor has completed the preliminary evaluation and it has been reviewed by the supervisor's manager, arrangements shall be made for a private discussion of the evaluation with the employee. The supervisor shall include in this discussion:

(a) Discuss the results of the performance evaluation just completed.

(b) Discuss the level of performance expected, rating criteria or goals for the new reporting period; and

(c) Career Development counseling relative to such topics as advancement, specialization, or training appropriate for the employee's position.

Elements of Career Development include:

(a) Career Counseling - interaction between a supervisor, manager or mentor and an employee during which the employee's goals, skills, knowledge, and abilities are discussed relative to improving work performance.

(b) Goal Setting - supervisors, managers, and mentors should assist the employee in setting goals; both short and long term.

(c) Education - employees are encouraged to continue their formal education by attending college classes, outside training classes and job related training through the Commission on Peace Officer Standards and Training (POST).

(d) Special Assignments - employees are encouraged to work in as many special assignments as possible to gain a variety of experience, thereby increasing their value to the Department.

(e) Training - all supervisory personnel will undergo orientation and subsequent annual training, which will provide enhanced knowledge and skills for conducting career development activities. This training shall include, but is not limited to: General counseling techniques. Skills, knowledge and abilities assessment techniques. Educational opportunities and incentive programs. Availability of outside resources.

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The supervisor shall 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. The supervisor and employee will sign and date the evaluation. Employees may also write comments in the Employee Comments section of the performance evaluation report.

1001.7.1 APPEAL PROCESS

If an employee wishes to contest information within their written evaluation, they shall be given the opportunity to comment in writing on the appraisal report. Comments may be made on the report in a space provided or submitted separately for attachment to the report. No comments will be accepted after thirty calendar days after the date the appraisal report is given to the employee for signature, as outlined in the City of Hayward Administrative Rule § 2.3 (d).

1001.8 EVALUATION REVIEW

After the supervisor finishes the discussion with the employee, the supervisor of the person issuing the performance evaluation shall review the evaluation for fairness, impartiality, uniformity, and consistency. Once signed by the supervisor of the rater, the performance evaluation shall then be forwarded to through the rater's chain of command to the rater's Division Commander for information and review. The quality of ratings given employees shall be included as one of the elements by which supervisors are in turn evaluated by their superiors.

1001.9 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. Monthly evaluations of probationary employees are maintained in Supervisors' files. A copy of the signed evaluation will be provided to the employee after all signatures and comments are noted by the appropriate Chain of Command. The original evaluation will be stamped "Copy Provided to Employee" once this has been done.

1001.10 REVISIONS

Enacted: December 17, 2007

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Revised: July 8, 2009

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Evaluation of Employees

Revised: May 23, 2016

Revised: March 29, 2019

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Promotional Policy

1002.1 PURPOSE AND SCOPE

It shall be the policy of the Hayward Police Department to develop and promote leaders with technical competence, integrity and accountability. Elements used to evaluate sworn candidates for promotion are job-related and nondiscriminatory. This policy provides guidelines for administering each element of the promotion process for sworn and professional staff candidates. To that end, the Department shall maintain a consistent, objective, merit based promotional system that:

(a) Provides equal opportunity to all qualified candidates.

(b) Identifies the most qualified candidates for promotion.

(c) Supports all members of the Department in their professional growth.

(d) Is consistent with relevant sections of the Memorandum of Understandings (MOU's) between the City and the applicable bargaining units (HPOA, SEIU, HAME, Police Management and Unrepresented).

1002.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 34.1.1, 34.1.2, 34.1.4, 34.1.5, 34.1.6, 34.1.7

1002.2 GENERAL PROCEDURES

The City of Hayward and the Hayward Police Department are committed to promoting personnel who have been deemed to possess the desirable qualifications that are needed to fulfill the agency's commitment to its staff, the City organization and the community.

The City of Hayward Human Resources Director has the primary responsibility to administer all promotional testing processes, in accordance with the City Charter and Personnel Rules. All elements used to evaluate candidates for promotion shall be job related and nondiscriminatory.

The Chief of Police or designee may assist the City of Hayward Human Resources Manager, or designee, with the development of the testing process to be used for promotional examinations.

The Personnel and Training Bureau is responsible for assisting the Human Resources Division in administering and evaluating the promotional process.

All promotion material shall be maintained in a secure area by the City of Hayward Human Resources Department or, when appropriate, by the Hayward Police Department Personnel and Training Bureau.

1002.2.1 POLICE DEPARTMENT RESPONSIBILITIES

The Chief of Police, or his/her designee, has responsibility for the following:

(a) Interviewing eligible candidates for promotion.

(b) Selecting candidates for promotion.

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(c) Administration of probationary periods.

1. The probationary period for classifications above the rank of Police Officer shall be twelve months as indicated by the HPOA MOU.
2. The probationary period for classifications within the professional staff ranks shall be either six or twelve months as indicated by their specific MOU.

1002.2.2 PROMOTIONAL ANNOUNCEMENTS

The City of Hayward, through the Human Resources Department, announces all upcoming promotional processes through inter or intra-City notification. Employees who meet the eligibility requirements for participating in the process must respond as outlined in the recruitment notification. The minimum requirements for consideration for promotion with the Police Department are specifically identified in each recruitment announcement, as determined by the Human Resources Manager and the Chief of Police and/or their staff. The announcement shall be posted and shall include the applicable portions of the following information:

(a) The position for which the test is being given.

(b) The opening and closing dates for applications.

(c) The minimum requirements.

(d) A description of the job duties.

(e) The pay scale.

(f) The testing process to be used.

(g) Reading list.

(h) Confidentiality Statement.

(i) Eligibility.

(j) General requirements.

1002.2.3 READING LISTS

A reading list for sworn promotional examinations shall be posted no later than three months before the scheduled examination date. All written examination questions will be taken from the published reading list.

1002.2.4 CONFIDENTIALITY

It shall be the responsibility of the City of Hayward Human Resources Department to insure compliance with this section during sworn promotional examinations. All persons involved in the development or administration of any phase of a sworn promotional testing process shall sign a confidentiality agreement (Confidentiality agreements are available through the City of Hayward Human Resources Department). All candidates participating in a sworn promotional process shall also sign a confidentiality agreement. All persons involved in the development or administration of any phase of a sworn promotional testing process are prohibited from mentoring or coaching any

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candidates for the process to which they are a party. A violation of this section shall be regarded as a serious breach of Department regulations and shall be subject to discipline.

1002.2.5 ELIGIBILITY
Minimum qualifications for eligibility must be met by the posted date of the first day of the testing process.

1002.2.6 APPLICATION REVIEW
The City of Hayward Human Resources Manager, or his/her designee, along with the Hayward Division Commander, Support Services Manager, or his/her designee, will be responsible for administering the application review process to determine eligible candidates.

1002.3 MINIMUM REQUIREMENTS FOR QUALIFICATION
Candidates seeking promotional opportunities should attain the following general requirements:

(a) Presents a professional, neat appearance.

(b) The member maintains a physical condition, which aids in their performance.

(c) 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. Honesty.
6. Leadership.
7. Initiative.
8. Adaptability and flexibility.
9. Ability to conform to organizational goals and objectives in a positive manner.

The minimum requirements for qualification for sworn promotional exams also include the following:

(a) **Sergeant**:

(a) Three years of current law enforcement work. All three years of the total experience must have involved work similar to that which would be experienced in Hayward.

(b) Off probation.

(c) Equivalent to completion of twelfth grade including or supplemented by courses in police science.

(d) Associate of Arts degree in a related field preferable as is eligibility for a POST advanced certificate but not required.

(e) Possession of California Class C Driver's License.

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(b) **Lieutenant**:

(a) Four years of current increasingly responsible sworn experience in municipal police work, including at least two years in a supervisory capacity at the rank of Police Sergeant.

(b) Off probation.

(c) Equivalent to completion of the twelfth grade supplemented by college courses in police science.

(d) Bachelor's Degree from an accredited institution in a related field is preferable but not required, as is eligibility for a POST advanced certificate.

(e) Possession of a California Class C Driver's License.

(c) **Captain**:

(a) Six years of current increasingly responsible experience in municipal police work, including at least two years in a supervisory/management capacity at the rank of Police Lieutenant.

(b) Equivalent to completion of twelfth grade.

(c) Bachelor's Degree from an accredited institution is required.

(d) Possession of a valid California Class C Driver's License.

(d) **Operation Support Services Manager:**

(a) Five years of current increasingly responsible experience in public safety, including at least two years of management experience equivalent to command level experience (Lieutenant or higher).

(b) Bachelor's degree from an accredited college or university with major course work in public safety or a related field. Possession of an Advanced POST certificate highly desirable.

(c) Possess and maintain a valid California Class C Driver's License.

The minimum requirements for qualification for professional staff promotional exams also include the following:

(a) **Professional Staff Supervisor**:

1. Minimum of two years of current increasingly responsible law enforcement experience in their specific classification.

2. Off Probation.

3. Equivalent to completion of twelfth grade.

4. Possession of a valid California Class C Driver's License.

5. Possession of required certifications relative to the position (ie; POST Dispatch Certificate, STC Core Completion, etc.).

(b) **Professional Staff Administrator**:

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1. Minimum three years of law enforcement supervisory experience in the classification they are seeking.
2. Off Probation.
3. Equivalent to completion of twelfth grade and supplemented by college level course work in supervision/management and general business. Education equivalent to an Associate of Arts Degree in Administration of Justice, Business or Public Administration is highly desirable.
4. Possession of licenses or certificates required for the position sought.
5. Possession of a valid California Class C Driver's License.

1002.4 ELEMENTS OF THE TESTING PROCESS

All promotional testing processes may include, but are not limited to, any combination of the following elements:

(a) Written exam and/or exercises:

1. If administered, the written exercise(s) should be designed to encompass the skills and knowledge required for the position. As with other aspects of the promotional process, the Chief of Police or his/her designee may provide input and support to the Human Resources Manager and his/her staff regarding topic areas and performance dimensions to be tested in the written exercise(s) portion of the selection process.
2. Written tests leased by the City of Hayward are validated from various recognized testing services (Cooperative Personnel Services, International Personnel Management Association, Commission on POST and independent consulting agencies).

(b) Performance exercises or assessment centers:

1. If performance exercises or assessment centers are used as a part of the selection process, the Human Resources Manager shall be responsible for the development and facilitation of the process. As with other aspects of the promotional process, the Chief of Police or his/her designee, will provide input and support to the Human Resources Manager and his/her staff regarding topic areas and performance dimensions to be tested in the performance exercise or assessment center portion of the selection process.

(c) Oral board qualification panel:

1. Oral boards may be an aspect of the selection process for promotional candidates. The Human Resources Manager shall be responsible for the development and facilitation of the oral board qualification panel. As with other aspects of the promotional process, the Chief of Police or his/her designee, will provide input and support to the Human Resources Manager and his/her staff regarding topic areas to be covered in the oral board portion of the selection process.

(d) Chief's Interview:

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1. At the discretion of the Chief, additional members of the Command Staff may be included in the Chief's Interview. If additional members of the Command Staff are included for any candidate, those same members shall be included for all candidates. The Chief's Interview shall have the purpose of objectively evaluating the candidates and selecting the candidates for promotion. Prior to making this decision, the Chief may solicit input from existing supervisors and managers as to the candidates' qualifications and suitability for promotion based on the candidates' past performance.

(e) Past job performance evaluations and/or training.

(f) Review/Appeal Process:

1. An employee has the right to review the scoring key and their answer sheets relating to the promotional examination.
2. An employee has the right to appeal the content of any portion of the examination, excluding past job performance evaluations and/or training records in accordance with the City's policies and procedures.

(g) Re-Application, re-testing and re-evaluation:

1. If, subsequent to an appeal, the Human Resources Department authorizes reapplication, re-testing, re-evaluation, or removal of specific items, the Human Resources Department will make the appropriate written notification and/or make adjustments for other affected candidates.
2. An employee is eligible to reapply for a position once the Human Resources Manager has opened recruitment and posted the position's job announcement.

(h) Eligibility Lists:

1. As soon as possible after the conclusion of an examination, the Human Resources Manager, or his/her designee, shall prepare an eligibility list of candidates sorted by banding and listed in alphabetical order within each band. The three banding categories are as follows:
   (a) Highly Qualified (100% to 85.00% score)
   (b) Qualified (84.99% to 70.00% score)
   (c) Not Ready (69.99% or below)
2. Eligibility lists shall become effective when certified by the Human Resources Manager. Eligible lists shall remain in effect one year, unless sooner canceled for any reason by the Human Resources Manager, and may be extended by action of the Human Resources Manager for an additional six months' period, but in no event shall a list remain in effect for more than two years.
3. When practical and consistent with the best interests of the City service, vacancies in the classified service shall be filled by promotion from within, by re-employment of persons previously laid off, or by persons demoted from the class in lieu of lay-off.

(i) Vacancies:

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1. The appointing authority shall refer to eligibility lists resulting from open competitive examination.

(j) Maintenance of promotional material:

1. All promotion material shall be maintained in a secure area by the City of Hayward Human Resources Department or, when appropriate, by the Personnel and Training Bureau.

1002.4.1 TESTING RESULTS

The City of Hayward Human Resources will maintain the following records for all promotional exams:

- Records of all candidates weighted scores in each eligibility requirement
- The system for ranking eligible candidates on the list

The system for ranking eligible candidates on the list will include the following criteria and procedures:

(a) Each element of the testing process will be weighted and candidates weighted scores for each eligibility requirement will be recorded.

(b) Once the testing process has concluded, an overall weighted score will be determined for each candidate and they will be ranked on the eligibility list according to their overall score.

Human Resources will provide each candidate written notice at the conclusion of the testing process. Each candidate will be advised of their overall weighted score and ranking number on the eligibility list.

1002.5 SUCCESSION PLANNING

Succession Planning is the process of identifying and developing a pool of leaders who can meet the Department's current and future leadership needs. Succession Planning efforts involve four elements:

- Identifying and analyzing key positions
- Assessing the candidate pool
- Creating individual development processes, and
- Selecting the right candidates

It shall be the responsibility of the Personnel and Training Manager to implement the following Succession Plan for the Hayward Police Department:

(a) The Personnel and Training Manager will create and annually update, in the month of January, a list of projected retirements and a list of potentially qualified applicants for promotion for the next five years.

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(b) The Personnel and Training Bureau and City of Hayward Human Resources staff, will at least once a year, present a coaching class on "Preparation for Promotional Testing" to all interested employees. Elements included in the coaching class shall include, career planning, study skills, written exam techniques, oral examination techniques and practical exercises.

(c) It shall be the responsibility of every supervisor and manager in the Department annually, in the month of February, to offer a voluntary career development counseling session to each of his or her subordinates. This session shall include but is not limited to short-term career goals, long-term career goals and specific training and developmental strategies necessary to achieve those career goals. The Personnel and Training Bureau shall provide technical assistance and support to supervisors and managers engaged in the implementation of this Section. The results of this counseling session will be recorded on an "Annual Career Development Plan" and filed in the employee's personnel folder (The Personnel and Training Bureau shall maintain Annual Career Development Plan forms for review). It shall then be the responsibility of supervisors, managers and the Personnel and Training Bureau to assist employees in their career development efforts.

1002.6 SECURITY OF PROMOTIONAL MATERIALS

The City of Hayward Human Resources Department will maintain the security of all promotional materials. Promotional materials will be retained in a secured file system within their Department in accordance with the City of Hayward Records Retention Schedule and applicable State and Federal Laws.

1002.7 REVISIONS

Enacted: December 17, 2007

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Revised: March 16, 2011

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Performance Improvement Plans

1003.1 PURPOSE AND SCOPE

The Performance Improvement Plan (PIP) is intended to be a positive approach designed to assist employees who have demonstrated substandard performance or behavior and who may benefit from intervention before it results in discipline or other negative consequences. The PIP is not intended as discipline. Rather, it is intended to aid employees by implementing a structured, written intervention plan focused on achieving desirable performance or behavior outcomes. In addition, the PIP serves as an integral tool of the performance appraisal process in that it provides for timely, constructive feedback while creating opportunities for an employee(s) to receive supervisory guidance and assistance to correct deficient work. This proactive strategy reflects the Hayward Police Department's commitment to maintaining employee performance and behavior to the standards reflected in the Department's performance evaluation dimensions and policies.

1003.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

1003.1.2 DEFINITION

The Performance Improvement Plan (PIP) is a written and structured intervention plan designed to assist employees to achieve acceptable performance/behavior outcomes when they have demonstrated a pattern of substandard performance or behavior.

1003.2 PROCEDURE

The components of the Performance Improvement Plan include Identification and Selection, Plan Development, and Plan Administration.

1003.2.1 IDENTIFICATION AND SELECTION

The purpose of identification and selection is to first recognize a pattern of performance and/or behavior which fails to meet published performance expectations or policy standards. Supervisors and managers are charged with continuously evaluating subordinate work and to identify those employees who may benefit from a performance or behavior intervention. Furthermore, supervisors and managers are expected to analyze the substance of substandard performance and/or behavior to determine the most appropriate course of corrective action. The PIP is not intended to replace disciplinary intervention when supervisors and managers determine discipline to be the most appropriate course of action.

In most cases when there is a minor policy violation or performance deficiency supervisors and managers may institute progressive intervention. Progressive intervention may include, but is not limited to verbal counseling, training, monitoring or other strategies. Intervention efforts should be documented on a memorandum. The supervisor(s) and manager of the affected employee may consider selection for a Performance Improvement Plan once progressive intervention efforts fail to produce desired results. Should the manager choose to select an employee to participate in

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a PIP, s/he shall first seek the approval of the affected employee's Division Commander. Upon approval of the Division Commander, the manager and/or supervisor(s) shall notify the affected employee of their intention to implement a PIP as soon as practical.

1003.2.2 PLAN DEVELOPMENT

The affected employee's supervisor(s) and manager will be responsible to author the content of the PIP unless otherwise directed by the responsible Division Commander. The PIP document will consist of six distinct categories in memorandum format as follows:

(a) **Summary**: Provide a brief description of the pattern of performance or behavior demonstrated by the affected employee and how it fails to meet published performance expectations or policy standards.

(b) **Specific Circumstances**: This section of the PIP should detail the circumstances and specific examples of the affected employee's performance or behavior that established a pattern of concern warranting supervisory intervention. Additionally, previous intervention efforts should be referenced in support of cause to select the affected employee for PIP participation.

(c) **Substandard Performance and/or Policy Violations**: This section of the PIP should identify the specific performance dimension(s) or policy standards and how the affected employee failed to meet them.

(d) **Impact of Employee's Performance and/or Behavior**: This section of the PIP should help the affected employee understand the impact and associated consequences of their substandard performance or behavior.

(e) **Strategies to Achieve Desirable Performance and/or Behavior Outcomes**: This section of the PIP is intended for the author(s) and the affected employee to work together in crafting objectives intended to map a successful outcome. Objectives should be SMART:

1. Specific: Write expectations that are clear and concise to help ensure the employee grasps an understanding of them.
2. Measurable: Install benchmarks so that progress or lack thereof is readily discernible.
3. Attainable: Make reasonable efforts to ensure the employee has ample opportunity and resources to meet the expectations of the objective.
4. Relevant: Draw a clear nexus between the expectation and named performance dimension(s) or policy standard(s).
5. Time Based: Develop a reasonable time-line to help define expectations and motivate positive progress.

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(f) **Performance Improvement Plan Terms**: This section of the PIP defines the duration of the plan, identifies the PIP administrator(s), prescribes supervisor feedback intervals, and other necessary terms. The following guidelines should apply to the PIP terms:

1. Duration: The duration of a PIP should be no longer than three months unless the affected employee's Division Commander determines an extension, not to exceed an additional three months, is likely to benefit both the affected employee and the Department. The PIP may be tolled to compensate for employee leave of absence and resume upon their return to full duty.

2. Feedback Intervals: The PIP administrator is expected to provide timely feedback and on-going guidance to the affected employee. The administrator should make reasonable efforts to meet with the employee no less than bi-weekly unless circumstances require a change of administrator or other unanticipated need(s).

3. Other Necessary Terms: Other necessary terms may include, but are not limited to the following:

   The employee may be required to attend training prescribed by the PIP administrator.

   The employee may submit to a voluntary assignment transfer.

   The PIP administrator may limit or restrict the affected employee from participating in work activities outside the scope of their primary assignment including, but not limited to ancillary responsibilities, voluntary overtime assignments, or other work that the PIP administrator reasonably believes may impede the employee's progress or success.

   Employees who are participating in a PIP will not be placed into a special assignment.

1003.2.3 PLAN ADMINISTRATION

The Performance Improvement Plan will be administered in the following manner:

(a) Supervisor Responsibilities:

1. Once an employee is selected for a PIP intervention, his/her supervisor and/or manager should meet with the affected employee to receive input on the content of the PIP.

2. The supervisor/manager should prepare a draft PIP and forward it through the chain of command to the affected employee's Division Commander for approval.

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3. The affected employee's supervisor should summarize the PIP intervention in the employee's performance evaluation within the same rating period as the PIP intervention.

(b) PIP Administrator Responsibilities:

1. The supervisor charged with administering the PIP will be known as the PIP administrator. The PIP administrator may be different than the affected employee's supervisor based on, but not limited to the terms of the PIP, needs of the employee or the Department, unanticipated absence, or change of assignment.
2. The PIP administrator should present the final version of the PIP to the affected employee to explain its content, expectations, and terms.
3. The PIP administrator is expected to execute the terms of the PIP.
4. The PIP administrator will document counseling sessions, feedback, employee progress or lack thereof, final review, or any other relevant information on a memorandum and attach it to the PIP.

(c) Division Commander Responsibilities:

1. Review the draft PIP, make changes or recommendations as necessary, and provide final approval to execute the PIP.
2. Review written rebuttals properly delivered in the manner described below and direct changes or recommendations to the PIP as deemed necessary.
3. Ensure feedback memoranda, final review, written rebuttals or other relevant documents are attached to the PIP.
4. Forward the PIP and related attachments to the Internal Affairs Unit where it can be maintained in the affected employee's personnel file until eligibility to be expunged as described below.

(d) Employee Responsibilities:

1. The affected employee will meet with his/her supervisor as directed and provide input into the development of the PIP in a reasonable and constructive manner.
2. The employee will review and acknowledge s/he has read the final version of the PIP by signing his/her name and date in the designated area of the PIP.
3. The employee maintains the opportunity to prepare a written rebuttal to the PIP and forward it through his/her chain of command to the responsible Division Commander. The written rebuttal must be presented by 5:00 pm on the seventh day after the start date of the PIP.
4. The employee will honor the terms of the PIP to the best of his/her ability.

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1003.3 RECORD RETENTION

Once the PIP is completed, it will be retained by the Internal Affairs Custodian of Records in the affected employee's personnel file. The affected employee's Division Commander will determine if the PIP may be expunged from the affected employee's personnel file after a period of three years from the date of the PIP final review if the following qualifications apply:

(a) The affected employee has successfully satisfied the terms of the PIP and has not repeated a pattern of similar substandard behavior and/or performance.

(b) The affected employee continues to meet performance standards established by published Department policy and/or performance evaluation dimensions following the administration of the PIP for a period of three years.

(c) The affected employee is not being investigated by the Department for alleged misconduct.

(d) The affected employee is not a party to a civil suit in their capacity as an employee of the city.

1003.4 REVISIONS

Enacted: December 17, 2007

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Grievance Procedure

1004.1 PURPOSE AND SCOPE

It is the policy of this department 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's philosophy is to promote a free verbal communication between employees and supervisors.

1004.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 25.1.1, 25.1.2, 25.1.3

1004.1.2 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 & 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 alleged acts of sexual, racial, ethnic or other forms of unlawful harassment, as well as complaints related to allegations of discrimination on the basis of sex, race, religion, ethnic background and other lawfully protected status or activity. These are subject to the complaint options set forth in the Discriminatory Harassment Policy. Personnel complaints consisting of any allegation of misconduct or improper job performance against any Department employee that, if true, would constitute a violation of Department policy, federal, state or local law are set forth in the Personnel Complaint Policy.

1004.2 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:

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1. Submit in writing a written statement of the grievance and deliver one copy to the Chief of Police, to the employee's immediate supervisor, and to the Internal Affairs Commander and include the following information:
   (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 and will be copied to the Internal Affairs Commander. The response shall include any remedies if appropriate. The decision of the City Manager is considered final.

1004.3 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.

1004.4 GRIEVANCE RECORDS

The Internal Affairs Unit (IA) shall maintain a file of all written grievances receivedAt least annually, the IA Commander shall verify that he/she has copies or thorough summaries of all employee grievances filed directly with the Department of Human Resources. This verification shall be through the Chief of Police and enables the IA Commander to draft the Annual Review of Grievances. See below.

1004.5 ANNUAL REVIEW OF GRIEVANCES

The Internal Affairs Unit shall perform an annual analysis of all written grievances filed during the previous calendar year to evaluate whether or not any policy/procedure changes or training may be appropriate to avoid future filings or grievances. The Internal Affairs Unit shall record these findings in a confidential and generic memorandum to the Chief of Police 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 Internal Affairs Unit should promptly notify the Chief of Police.

1004.6 REVISIONS

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Grievance Procedure

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Anti-Retaliation

1005.1 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.

1005.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 26.1.1, 26.1.3, 26.1.5

1005.2 POLICY

The Hayward 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.

1005.3 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.

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- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

1005.3.1 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)).

1005.4 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 Personnel and Training Administrator.

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.

1005.5 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.

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(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.

(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.

1005.6 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.

1005.7 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 Internal Affairs Unit for investigation pursuant to the Personnel Complaints Policy.

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1005.7.1 DISPLAY OF WHISTLE-BLOWER LAWS
The Department shall display a notice to members regarding their rights and responsibilities under the whistle-blower laws, including the whistle-blower hotline maintained by the Office of the Attorney General (Labor Code § 1102.8).

1005.8 RECORDS RETENTION AND RELEASE
The Internal Affairs Manager shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

1005.9 TRAINING
The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

1005.10 REVISIONS
Enacted: April 22, 2014

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Reporting of Employee Convictions

1006.1 PURPOSE AND SCOPE

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

The Personnel and Training Unit Lieutenant or designee shall submit in a timely manner a notice to the Commission on Peace Officer Standards and Training (POST) of any appointment, termination, reinstatement, name change or status change regarding any peace officer, reserve peace officer, public safety dispatcher and records supervisor employed by this department (11 CCR § 1003).

The The Personnel and Training Unit Lieutenant or designee shall submit in a timely manner a notice to POST of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR § 1003).

1006.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.2.1

1006.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

California and federal law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All members are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

1006.3 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty, or nolo contendere plea.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on an employee’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.

Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this [department/office] may be inherently in conflict with law enforcement duties and the public trust.

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1006.4 REPORTING PROCEDURE

All members of this Department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing of any past or current criminal arrest or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but not limited to, being placed on administrative leave, reassignment and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member on his/her own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

1006.5 PROCEDURE FOR RELIEF

Pursuant to Penal Code § 29855, a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 29855 will not relieve one of the restrictions imposed by federal law. Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Employees shall seek relief from firearm restrictions on their own time and through their own resources.

Pursuant to Family Code § 6389(h), an individual may petition the court for an exemption to any restraining order, which would thereafter permit the individual to carry a firearm or ammunition as a part of the individual's employment. Relief from any domestic violence or other restriction shall also be pursued through the employee’s own resources and on the employee’s own time.

Pending satisfactory proof of relief from any legal restriction imposed on an employee’s duties, the employee may be placed on administrative leave, reassigned, or disciplined. The [Department/ Office] may, but is not required to return an employee to any assignment, reinstate any employee, or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.

1006.5.1 NOTIFICATION REQUIREMENTS

The The Personnel and Training Unit Lieutenant or designee shall submit within 30 days of final disposition a notice to the Commission on Peace Officer Standards and Training (POST) of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer

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employed by this [department/office] or any former peace officer if this [department/office] was responsible for the investigation (11 CCR 1003).

The The Personnel and Training Unit Lieutenant or designee shall submit within 10 days a notice to 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/office] (11 CCR 1003).

1006.6 REVISIONS

Enacted: December 17, 2007

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Revised: March 16, 2011

Revised: April 9, 2013

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Drug- and Alcohol-Free Workplace

1007.1 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).

1007.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 26.1.1, 52.2.6

1007.2 POLICY

It is the policy of this department to provide a drug and alcohol-free workplace for all members.

1007.3 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).

1007.3.1 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.

1007.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

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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).

1007.5 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.

1007.6 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.

1007.7 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 discharges a firearm in the performance of the employee's duties (excluding training or authorized euthanizing of an animal).

(c) The employee discharges a firearm issued by the [Department/Office] while off-duty, resulting in injury, death, or substantial property damage.

(d) 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.

1007.7.1 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.

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(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.

1007.7.2 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.

1007.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

1007.9 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.

1007.10 REVISIONS

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Sick Leave

1008.1 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.) and the California Family Rights Act, and leave related to domestic violence, sexual assault, stalking or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Labor Code § 230.1; Labor Code § 1510).

1008.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.2.1

1008.2 EMPLOYEE RESPONSIBILITIES

Sick leave may be used for absences caused by illness, injury, temporary disability (including pregnancy/maternity), or for medical, dental or vision exams or medical treatment of the employee or the employee's immediate family when it is not possible to schedule such appointments during non-working hours.

Sick leave is not considered vacation, and abuse of sick leave may result in discipline and/or denial of sick-leave benefits. Employees on sick leave shall not engage in other employment or self-employment, or participate in any sport, hobby, recreational or other activity which may impede recovery from the injury or illness.

1008.2.1 NOTIFICATION

Employees shall notify the on-duty Watch Commander or on-duty supervisor(s) via phone or personal contact as soon as they are aware they will not be able to report to work. Notification of their pending absence via email to the on-duty Watch Commander or on-duty supervisor(s) is not permitted. At a minimum, employees shall make such notification no less than one hour before the start of their scheduled shift.

In the case of an emergency, every effort should be made by employees to have a representative contact the on-duty Watch Commander or on-duty supervisor(s).

As a courtesy, employees are encouraged to notify their immediate supervisor(s) of their pending absence after making phone or personal contact with the on-duty Watch Commander or on-duty supervisor(s).

Upon notification of an employee's pending absence due to personal or family illness, the on-duty Watch Commander or on-duty supervisor(s) will arrange for a replacement, as appropriate.

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When the necessity for leave is foreseeable, such as an expected birth or planned medical treatment, employees shall, whenever possible, provide the Department with no less than 30 days notice of the intent to take leave.

1008.3 EXTENDED ILLNESS

Employees on extended absences shall, if possible, contact their unit supervisor at three-day intervals to provide an update on their absence and expected date of return. Employees absent from duty due to personal illness in excess of three consecutive days may be required to furnish a statement from their health care provider supporting the use of sick leave and/or the ability to return to work.

Nothing in this section precludes a supervisor, with cause, from requiring a physician's statement if three or fewer sick days are taken.

1008.3.1 NOTIFICATION

All members should notify the Watch Commander or appropriate supervisor as soon as they are aware that they will not be able to report to work and no less than one hour before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor (Labor Code § 246).

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the [Department/ 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.

1008.4 SUPERVISOR RESPONSIBILITY

Supervisors should monitor sick leave usage and regularly review the attendance of employees under their command to ensure that the use of sick leave is consistent with this policy. Supervisors should address sick-leave use in the employee's performance evaluation when it has negatively affected the employee's performance or ability to complete assigned duties, and when unusual amounts of sick leave by the employee has had a negative impact on department operations. When appropriate, supervisors should counsel employees regarding the excessive use of sick leave and should consider referring the employee to the Employee Assistance Program.

1008.5 FAMILY LEAVE ACT (FMLA)

Employees planning family leave for absences authorized under this act shall state their request through the Human Resources Department after reporting this information to their immediate supervisor. If the need for FMLA is foreseeable (e.g., nonemergency medical procedure or bonding leave), the request must be submitted at least 30 days before the leave is to begin.

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1008.6 REQUIRED NOTICES

The Personnel and Training Administrator shall ensure:

(a) Written notice of the amount of paid sick leave available is provided to employees as provided in Labor Code § 246.

(b) A poster is displayed in a conspicuous place for employees to review that contains information on paid sick leave as provided in Labor Code § 247.

1008.7 REVISIONS

Enacted: December 17, 2007

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Communicable Diseases

1009.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

1009.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.3.1

1009.1.2 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 Hayward Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

1009.2 POLICY

The Hayward 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.

1009.3 EXPOSURE PREVENTION AND MITIGATION

1009.3.1 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 vehicles, as applicable.

(b) Wearing department-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.

(c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.

(d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.

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(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.

1009.3.2 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).

1009.4 POST EXPOSURE

1009.4.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

(a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).

(b) Obtain medical attention as appropriate.

(c) Notify a supervisor as soon as practicable.

1009.4.2 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

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(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).

1009.4.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Department 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.

1009.4.4 COUNSELING

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (8 CCR 5193).

1009.4.5 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 (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

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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.

1009.5 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.

1009.6 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.

1009.7 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.

(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:

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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).

(g) Coordination with the Department of Human Resources to provide required notices to members regarding COVID-19 exposures (Labor Code § 6409.6).

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).

1009.8 REVISIONS

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Communicable Diseases

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Smoking and Tobacco Use

1010.1 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 Hayward 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.

1010.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

1010.2 POLICY

The Hayward 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 and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles, and as is further outlined in this policy (Government Code § 7597; Labor Code § 6404.5).

1010.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Hayward 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.

1010.4 ADDITIONAL PROHIBITIONS

No person shall use tobacco products within 20 feet of a main entrance, exit, or operable window of any public building (including any department facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement, or any other purpose (Government Code § 7596 et seq.).

1010.4.1 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).

1010.5 REVISIONS

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Smoking and Tobacco Use

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Personnel Complaints

1011.1 PURPOSE AND SCOPE

The purpose of this procedure is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members and employees of this Department.

1011.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.2.1, 52.1.1, 52.1.2, 52.2.1, 52.2.2, 52.2.3, 52.2.4, 52.2.5, 52.2.7, 52.2.8

1011.1.2 PERSONNEL COMPLAINTS DEFINED

A personnel complaint is any allegation of misconduct or improper job performance against any Department employee that, if true, would constitute a violation of Department policy, federal, state or local law.

Questions about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a department supervisor and shall not be considered complaints.

This policy shall not apply to any interrogation, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to an investigation concerned solely and directly with alleged criminal activities (Cal. Government Code § 3303 (i)).

Inquiries are complaints and/or questions about policies or procedures of the Department or law. Inquiries shall be documented by supervisors and/or managers in Blue Team as an inquiry.

Personnel Complaints shall be classified in one of the following categories:

Formal Complaint - A matter in which a formal administrative investigation is conducted, reviewed, and assigned a disposition consistent with Department policy.

All allegations of excessive force, dishonesty (falsification of reports, theft, etc.), bias or discrimination, Civil Rights violations (false arrest, search and seizure, etc.), or other allegations of serious misconduct shall be documented and handled as formal complaints.

Additionally, a matter shall be documented and handled as a formal complaint if a supervisor or manager determines that investigation beyond the informal level is warranted or when the complaining party requests further investigation.

Informal Complaint - A matter that does not meet the thresholds of a formal complaint may be handled as an informal complaint if the complainant is satisfied that appropriate action has been taken by a department supervisor or manager of greater rank than the involved employee(s) and the complained about behavior or job performance would not normally result in the imposition of discipline.

Informal complaints shall be documented in Blue Team as an Informal Citizen Complaint.

1011.2 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

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1011.2.1 AVAILABILITY OF COMPLAINT FORMS

A brochure containing a description of the Department's procedure for filing complaints by members of the public will be maintained in a clearly visible location in the public lobby and may also be available at other government facilities.

1011.2.2 SOURCE OF COMPLAINTS

Forms for filing complaints against the Department or its employees shall be available at the lobby front counter, however the use of a Department form is not a requirement for filing a complaint.

A blank complaint form shall be provided immediately to any person requesting one from any Department employee at the lobby front counter. The person requesting the complaint form shall not be required to provide personal identification or to specify the nature of their complaint in order to receive a blank complaint form.

1011.2.3 ACCEPTANCE OF COMPLAINTS

All complaints against the agency or its employees involving msiconduct or improper job performance shall be investigated.

A Department employee becoming aware of alleged misconduct shall immediately notify a supervisor.

1011.2.4 COMPLAINT DOCUMENTATION

A personnel complaint may be filed in person, in writing, or by telephoning the Department. Although not required, every effort should be made to have the complainant appear in person. If possible, a supervisor or manager should be the person who initially accepts a personnel complaint, however no member of the public will be required to wait an extended period of time for the arrival of a supervisor or manager for this purpose. In those instances where a supervisor or manager is not available, any employee shall accept the complaint form and give it to the on-duty Watch Commander as soon as possible.

(a) When an uninvolved supervisor or the Watch Commander determines that the reporting person is satisfied that their complaint required nothing more than an explanation regarding the proper/improper implementation of Department policy or procedure, a personnel complaint shall not be taken and the complaint shall be documented as an inquiry in Blue Team.

(b) When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a personnel complaint form.

(c) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

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The Chief of Police shall be informed of all complaints made against the Department or its employees. The notification may be made verbally or in writing. The responsibility of the notification shall be made by the assigned staff of the Internal Affairs Unit, who have the authority to report directly to the Chief of Police. The Internal Affairs Unit shall immediately notify the Chief of Police at any time where a complaint was received that involves allegations of a serious nature.

1011.2.5 COMPLAINT DOCUMENTATION

Formal complaints of alleged misconduct shall be documented by a supervisor on a personnel complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

A supervisor shall document informal complaints in a Blue Team entry.

When a personnel complaint form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement. The complainant should be provided with a copy of his/her own original complaint per Penal Code § 832.7.

1011.3 SUPERVISOR RESPONSIBILITY

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation. Moreover, supervisors shall also maintain the ability to engage in the interrogation of an employee in the normal course of duty, counseling, instruction, or informal verbal admonishment, or other routine or unplanned contact (Cal. Government Code § 3303(i)).

In general, the primary responsibility for the investigation of informal complaints shall rest with the employee's immediate supervisor. All other complaints shall be investigated by the Internal Affairs Unit. The Chief of Police or authorized designee may, however, direct that another line supervisor investigate it. The line supervisor shall be responsible for the following:

(a) A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the Watch Commander, Commanding Officer and Chief of Police are notified as soon as practicable.

(b) A supervisor receiving or initiating any formal complaint shall ensure that a Personnel Complaint form has been completed as fully as possible. The original complaint form will then be directed to the Commanding Officer of the accused employee, via the chain of command, who will take appropriate action or forward the complaint to the Internal Affairs Unit for further action.

1. During the preliminary investigation of any complaint, the supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses.

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2. Photographs of alleged injuries shall be taken after medical attention has been provided. Additional photographs shall be taken showing the absence of injuries.
3. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the employee's Division Commander or the Chief of Police who will initiate appropriate action.

(c) A supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to Government Code § 3303, et seq.

(d) When the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly contact the Human Resources Department and the Chief of Police for direction regarding their role in investigation and/or addressing the complaint.

1011.3.1 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 Internal Affairs 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 Internal Affairs Unit, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

1011.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

(a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.

(b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.

(c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.

(d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.

(e) Tort claims and lawsuits may generate a personnel complaint.

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1011.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature or when circumstances practically dictate that it would impose an unreasonable risk to the Department, the employee, other employees or the public, a supervisor may, with the approval of the Division Commander, assign the accused employee to inactive duty pending completion of the investigation or the filing of administrative charges.

1011.4.1 ADMINISTRATIVE LEAVE

An employee placed on administrative leave may be subject to the following guidelines:

(a) Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline.

(b) An employee placed on administrative leave may be required by a supervisor to relinquish any badge, departmental identification, assigned weapon(s) and any other departmental equipment.

(c) An employee placed on administrative leave may be ordered to refrain from taking any action as a departmental employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor.

(d) An employee placed on administrative leave may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee may be required to remain available for contact at all times during such shift and report as ordered.

(e) It shall be the responsibility of the assigning supervisor to promptly notify the employee's Division Commander and the Chief of Police.

(f) At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned to their regularly assigned shift with all badges, identification card and other equipment returned.

1011.4.2 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).

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1011.4.3 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).

1011.4.4 HATE COMPLAINTS AGAINST PEACE OFFICERS
Internal complaints or complaints from the public shall be accepted and investigated in accordance with this policy where it is alleged that an officer has in the previous seven years, and since 18 years of age, engaged in membership in a hate group, participated in a hate group activity, or advocated any public expression of hate (Penal Code § 13682).

1011.5 ALLEGATIONS OF CRIMINAL CONDUCT

Where an employee of this Department is accused of potential criminal conduct, a separate supervisor or other 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 practical when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Chief of Police may request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian and the employee may not be administratively ordered to provide any information to a criminal investigator.

No information or evidence administratively coerced from an employee may be provided to a criminal investigator.

Any law enforcement agency is authorized to release information concerning the arrest or detention of a peace officer, which has not led to a conviction, however, no disciplinary action, other than paid administrative leave shall be taken against the accused employee based solely on an arrest or crime report (Labor Code § 432.7(b)). An independent administrative investigation shall be conducted based upon the allegations in the report in accordance with Department policy.

1011.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1011.6.1 ADMINISTRATIVE SEARCHES
An employee of this Department may be administratively ordered to submit to a blood, breath, or urine test for alcohol and drugs under any of the following circumstances:

- When the employee, whether on or off-duty, is involved in a shooting or police related death.
- When the employee is involved in an injury or fatal accident while on duty.
- When the employee is involved in an injury or fatal accident while operating any City owned vehicle whether on or off-duty.

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- When the employee is found to be exhibiting objective symptoms of intoxication or drug influence while on duty.

The use of compelled testing results shall be restricted to the administrative investigation.

Any employee may be compelled to disclose personal financial information pursuant to proper legal process; if such information tends to indicate a conflict of interest with official duties, or, if the employee is assigned to or being considered for a special assignment with a potential for bribes (Government Code § 3308).

Employees shall have no expectation of privacy when using telephones, computers, radios or other communications provided by the Department.

Assigned lockers and storage spaces may only be administratively searched in the employee's presence, with the employee's consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place (Government Code § 3309)

All other Departmentally assigned areas (e.g., desks, office space, assigned vehicles) may be administratively searched by a supervisor, in the presence of an uninvolved witness, for non-investigative purposes. (e.g., obtaining a needed report or radio). An investigative search of such areas shall only be conducted upon a reasonable suspicion that official misconduct is involved.

1011.6.2 ADMINISTRATIVE INVESTIGATION FORMAT AND PROCEDURES

Administrative Investigations shall be detailed, complete and essentially follow this format:

Introduction - include the identity of the employee(s), the identity of the assigned investigator(s), the initial date and source of the complaint and the identity of the complainant.

Summary - provide a very brief summary of the facts giving rise to the investigation.

Allegations - list the allegations separately (including applicable policy sections) with a very brief summary of the evidence relevant to each allegation.

Investigation - each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.

Exhibits - a separate list of exhibits (tapes, photos, documents, etc.) should be attached to the report.

Conclusion - a seperate recommended FINDING should be provided for each allegation based on the testimony and evidence present in the investigation.

Whether conducted by a supervisor or a member of the Internal Affairs 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, he/she shall be compensated.

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(b) Unless waived by the member, interviews of an accused member shall be at the Hayward 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. 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.

(g) 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 and after the investigator has consulted with the prosecuting agency.

(h) The interviewer shall 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).

No investigation shall be undertaken against any officer solely because 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. However, an investigation may be 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 (Government Code § 3305.5).

1011.6.3 INVESTIGATIVE IDENTIFICATION OF EMPLOYEES

An investigator may require an employee to participate in a line-up and/or submit to photographs for purposes of identification if probable cause exists to believe the employee has involvement in a criminal offense and the evidence is material to the investigation.

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1011.6.4 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.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

1011.6.5 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.

1011.6.6 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).

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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.

1011.6.7 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.

1011.7 DISPOSITION OF PERSONNEL COMPLAINTS

Each allegation shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged act(s) did not occur or did not involve Department personnel. Complaints which are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.5(c)).

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 employee.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1011.7.1 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

1011.8 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.

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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 Hayward 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.

1011.9 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 and include their comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

1011.9.1 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.

1011.9.2 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.

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(b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.

1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
2. If the member elects to respond orally, the presentation may be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

1011.9.3 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)).

1011.9.4 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)).

1011.10 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.

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1011.11 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).

1011.12 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, Memorandum of Understanding and/or personnel rules.

In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

During any administrative appeal, evidence that an officer has been placed on a *Brady* list or is otherwise subject to *Brady* restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such *Brady* evidence shall be limited to determining the appropriateness of the penalty (Government Code § 3305.5).

1011.13 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.

1011.14 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.

1011.15 REQUIRED REPORTING TO POST

The Chief of Police or the authorized designee shall notify POST on the appropriate POST form within 10 days of certain officer personnel events, including but not limited to (Penal Code § 13510.9):

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(a) Termination or separation from employment or appointment. Separation from employment or appointment includes any involuntary termination, resignation, or retirement.

1. A POST affidavit-of-separation form shall be executed and maintained by the [Department/Office] and submitted to POST as required by Penal Code § 13510.9 and 11 CCR 1003.

(b) Events that could affect an officer's POST certification, such as:

1. Complaints, charges, or allegations of misconduct
2. Findings of civilian review boards
3. Final dispositions of any investigations
4. Civil judgments or court findings based on conduct, or settlement of a civil claim against an officer or the Hayward Police Department based on allegations of conduct by an officer

The Chief of Police or the authorized designee shall be responsible for providing POST access to or duplication of investigation documentation (e.g., physical or documentary evidence, witness statements, analysis, conclusions) for up to two years after reporting of the disposition of an investigation (Penal Code § 13510.9).

1011.16 REVISIONS

Enacted: December 17, 2007

Revised: August 19, 2008

Revised: February 18, 2009

Revised: July 8, 2009

Revised: August 5, 2009

Revised: February 7, 2010

Revised: April 9, 2013

Revised: April 22, 2014

Revised: March 31, 2015

Revised: May 23, 2016

Revised:May 5, 2017

Revised:August 8, 2017

Revised:February 8, 2021

Revised: December 10, 2021

Revised: February 10, 2023

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Seat Belts

1012.1 PURPOSE AND SCOPE

The use of seat belts and other safety restraints significantly reduces the chance of death or injury in case of a traffic collision. This policy establishes guidelines for seat belt and child safety seat use to promote maximum operator and passenger safety, thus reducing the possibility of death or injury as the result of a motor vehicle crash. This policy will apply to all employees operating or riding in Department vehicles (Vehicle Code § 27315.5).

1012.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.3.3

1012.1.2 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.

1012.2 POLICY

It is the policy of the Hayward Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

1012.3 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

1012.4 TRANSPORTING PERSONS IN CUSTODY

Persons who are in custody should be in a seated position and secured in the rear seat of any [department/office] vehicle with a restraint system or, when a restraint system is not available, by seat belts provided by the vehicle manufacturer. The restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

An incarcerated person in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

1012.5 INOPERABLE SEAT BELTS

No person shall operate a Department vehicle in which the seat belt in the driver's position is inoperable. No person shall be transported in a seating position in which the seat belt is inoperable.

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No person shall modify, remove, deactivate or otherwise tamper with the vehicle safety belts, except for vehicle maintenance and repair staff who shall do so only with the express authorization of the Chief of Police.

Employees who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

1012.6 TRANSPORTING CHILDREN

Children under the age of 8 shall be transported in compliance with California's child restraint system requirements (Vehicle Code § 27360; Vehicle Code § 27363).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363).

The Hayward Policed Department maintains child-restraint systems in the Youth and Family Services Bureau.

1012.7 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.

1012.8 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.

1012.9 REVISIONS

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Seat Belts

Revised: May 23, 2016

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Revised: March 12, 2021

March 9, 2023

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Body Armor

1013.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

1013.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA standards: 41.3.5, 41.3.6

1013.2 POLICY

It is the policy of the Hayward 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.

1013.3 ISSUANCE OF BODY ARMOR

The Personnel and Training Manager shall ensure that body armor is issued to all officers when the officer begins service at the Hayward Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Personnel and Training Manager 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.

1013.3.1 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.

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1013.3.2 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 a Range Master for fit, cleanliness, and signs of damage, abuse and wear.

1013.3.3 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.

1013.4 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.

1013.5 REVISIONS
Enacted: December 15, 2007

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Revised: May 20, 2009

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Critical Incident Stress Management Program

1014.1 PURPOSE AND SCOPE

It is the policy of the Hayward Police Department to assist and support employees who have been involved in a critical incident, or are experiencing acute or chronic stress. This support may include, but is not limited to: pre-incident education, use of Peer Support Team or individual Peer Support Team members, defusing and/or debriefing activities, support of family members, and referral to appropriate professional resources.

The purpose of the Critical Incident Stress Management Program and Peer Support Team is to minimize the physical, emotional, and psychological reactions to stress, and to provide necessary and appropriate resources, information on employee benefits and help and guidance for employees and their families who have been involved in a critical incident, injury or death or are experiencing acute or chronic stress.

1014.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.2.3, 22.2.4, 22.2.6

1014.2 DEFINITIONS

Traumatic Event/Critical Incident: Directly experiencing or witnessing actual or threatened death or serious injury or experiencing a threat to one's own physical integrity or the physical integrity of someone else (DSM-IV APA, 1994). Any event that may temporarily overwhelm an individual's usual methods of coping or produce unusually strong reactions. Examples include, but are not limited to:

(a)
1. Officer Involved Shootings.
2. Officer death.
3. Serious injury to employee(s).
4. Employee suicide.
5. Traumatic death or serious injury to a child.
6. Victim personally known to employee.
7. Mass homicides.
8. Death of person in police custody.
9. Injury or death of a civilian as a result of operational procedures.

Individual Reactions to a Traumatic Event: It is important to note an individual's reaction to a traumatic event is individual-specific based on the totality of circumstances in that individual's life (e.g. the degree of involvement, cumulative events, personal similarities with event, children, etc.).

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Critical Incident Stress Management Program

International Critical Incident Stress Foundation (ICISF): ICISF is a worldwide organization dedicated to the prevention and mitigation of disabling stress through education, training and support services for all emergency services professions.

Peer Support Team: A team comprised of Hayward Police Department employees who will provide support and referral to employees to prevent and mitigate the negative impact of stress.

Peer Support Team Member: An employee trained to provide psychological first aid, support and referrals for employees of the Hayward Police Department.

Peer Support Team Coordinators: A supervisor will be appointed by the Personnel & Training Administrator, and/or Chief of Police, who will coordinate team training, communicate with the team's designated Mental Health Professional, ensure appropriate team deployment, track follow-up services, and perform other administrative duties related to the Peer Support Team.

Team Manager: The Personnel & Training Administrator will serve as Team Manager and will be responsible for the team budget, authorizing overtime when necessary and obtaining approval for team deployment from a Division Commander, if such deployment will involve significant overtime and/or a critical incident stress debriefing.

Mental Health Professional: A licensed mental health professional who has specific expertise, experience, education and training in the field of critical incident stress management with special emphasis on police personnel, who is a designated consultant retained by the Hayward Police Department for the Critical Incident Stress Management Program.

CISD: Critical Incident Stress Debriefings, Defusing's and/or Demobilizations: Different types of meetings designed to mitigate the psychological impact of a traumatic event, prevent the subsequent development of post-traumatic stress disorder, and serve as an early identification mechanism for individuals who may require professional mental health follow-up. Debriefings, Defusing's and Demobilizations are structured group meetings or discussions during which personnel are given an opportunity to discuss their thoughts and reactions concerning a traumatic event in a controlled environment under the direction of a mental health professional and/or peer support personnel.

Debriefing: The debriefing is a seven-phase process that should be conducted within 72-hours of the traumatic event. The debriefing usually lasts 2-3 hours depending on the number of participants. It is led by a qualified mental health professional assisted by Peer Support Team members.

Defusing: A shortened version of the debriefing, generally lasting less than one hour. A defusing is a three-phase process that should take place as soon as possible after the traumatic event (usually within 3-8 hours, and ideally before the end of shift). The defusing may be used to determine the need for debriefing and/or other services, and are typically conducted by a Peer Support Team member.

Demobilization: A brief informational session applied when operational units have been released from service at a major incident/disaster that requires unusually large numbers of personnel or

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lengthy periods of deployment. It serves a secondary function as a screening opportunity to assure that individuals who may need assistance are identified early after a traumatic event.

Peer Assistance: A process by which trained personnel provide emotional support and referrals for a colleague during a crisis or when they are under stress. Generally, peer assistance is sought by the employee in need, or suggested by the employee's peer(s) or supervisor(s). Peer assistance does not replace the need for structured group intervention following trauma. Peer assistance or support is a necessary adjunct to professional mental health services. Peer assistance is not a replacement for the Department's contracted Employee Assistance Program (EAP).

Employee Assistance Program (EAP): The Hayward Police Department's employee assistance program is a consulting/counseling service for a variety of personal issues, separate from traumatic events experienced in the line of duty.

1014.3 INITIATION OF GROUP PEER SUPPORT TEAM INTERVENTION

(a) Trauma takes a variety of forms and cannot be accurately or exhaustively quantified by description. However, certain events are of such magnitude that they impact nearly everyone involved. For purposes of Hayward response criteria, these incidents are defined as follows:

1. Line of duty death.
2. Serious line of duty injury.
3. Suicide of an HPD employee.
4. Off-duty employee death.
5. Disaster.
6. Multi-casualty incident.
7. Officer-involved shooting.

(b) When such incidents occur an automatic Peer Support Team response will be initiated. The Other and/or Incident Commander shall see that the Peer Support Team Manager is notified. The Peer Support Team Manager will then notify the team's contracted Mental Health Professional for consultation, and the Peer Support Team Coordinator. The type of intervention and response will be assessed and initiated.

(c) Additional incidents that may warrant group trauma intervention and Peer Support Team call-out include, but are not limited to:

1. Death of a person in police custody.
2. Serious injury or death of a civilian as a result of operational procedures.
3. Significant events involving children.

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4. Victim of serious crime or accident known to employee(s).
5. Excessive media interest portraying employee(s) in a negative manner.

(d) The Peer Support Team Manager will discuss the possibility of a group trauma intervention (CISD) with the appropriate Division Commander, who will make the final determination.

(e) The CAD command of "Info Peer Support" will list the notification protocol and Peer Support Team members available for call-out.

(f) The effectiveness of this program is dependent upon a consistent, Departmental response to traumatic events, to reduce the physical, psychological and emotional impact of such events upon our employees, and to avoid the effects of post-traumatic stress.

(g) The critical incident stress debriefing or defusing (CISD) should include any sworn or professional staff police personnel directly involved in the incident. If the CISD is for an incident described above, attendance is mandatory for those directly involved. If the CISD is for an incident described above, attendance is voluntary.

(h) While a non-affected employee may be required to attend a mandatory CISD, active participation is not mandatory. However, employees are reminded that non-affected or moderately-affected employees may have vital information/perspective that could help a fellow employee better understand an incident.

1014.4 INITIATION OF INDIVIDUAL PEER SUPPORT INTERVENTION

(a) One-on-one peer support is the crux of this program, with group intervention being used only for the most traumatic events. Any employee in need of peer support assistance may contact a Peer Support Team member of their choosing for such support. Peer Support Team members' contact information shall be available via CAD by entering "Info Peer Support."

(b) Members of the Peer Support Team shall not engage in psychological or personal counseling as defined in Business & Professions Code Section § 2903, and shall refer employees to professional assistance when appropriate. Examples of situations requiring professional referral include, but are not limited to:

1. Alcohol and/or substance abuse issues.
2. Depression and/or suicidality.
3. Relationship issues.

(c) Members of the Peer Support Team should contact the Peer Support Team Manager for law enforcement-related issues that require professional referral to the Mental Health Professional outside of EAP.

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1014.5 TEAM COMPOSITION

(a) The Hayward Police Department Peer Support Team is comprised of personnel who have specialized training in assisting peers and their families with the immediate adverse effects of a traumatic event.

(b) The Peer Support Team will be divided into two groups, which will be available on alternating months. Peer Support Team members should be available on a 24-hour basis.

(c) Being a member of the Peer Support Team is voluntary. In most cases, peer assistance should take the form of an on-duty meeting of a relatively short duration. Prolonged peer assistance, such as debriefings or defusing's, should be scheduled on-duty when possible.

(d) Peer Support Team members shall be compensated only under the following circumstances, and only with the prior approval of the Peer Support Team Manager, Watch Commander, or Division Commander:

1. Scheduled team training.
2. Mandatory meetings.
3. CISD's.

1014.6 TEAM SELECTION AND REQUIRED TRAINING

(a) Peer Support Team members will be chosen based on the following criteria:

1. Expressed desire to be a member of the Peer Support Team.
2. Minimum commitment of three (3) years.
3. No work restrictions involving psychological stress.
4. Must be a member of the Hayward Police Department who has successfully completed probation.
5. Must consistently display solid judgment and discretion in sensitive matters.
6. Must display empathy and have strong interpersonal communication skills.
7. Initial team selection will be a process of peer nominations. All nominated employees will be reviewed by the Peer Support Coordinator and Manager for recommended selection. Final approval will be made by the Chief of Police.
8. Due to the "dual relationship" conflict of interest, Youth & Family Services Bureau counselors may not be members of the Peer Support Team. Counselors will be encouraged to attend ICISF certification training with the team, so that they may provide CISD services to the community.

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(b) The Personnel & Training Manager will be the only manager of the Hayward Police Department Peer Support Team. He or she will serve as team administrator and be available to provide CISM services for other Department managers. They will not participate in CISM services for non-management employees, unless specifically approached by an employee seeking one-on-one peer support.

(c) Peer Support Team members should receive the following training within the first 12-months of appointment:

1. ICISF Basic Critical Incident Stress Management course.
2. ICISF Intermediate Critical Incident Stress Management course.

(d) Peer Support Team members should receive the following training within the first 24-months of appointment:

1. ICISF Advanced Critical Incident Stress Management course.
2. COPS Traumas of Law Enforcement course.

(e) Peer Support Team members should also attend quarterly in-house team training with the teams' Mental Health Professional(s) (minimum of 4-hours).

(f) The Peer Support Team Manager and Coordinator shall be responsible for applying for Hayward Police Department Team Certification through ICISF once the members have attained the required level of training.

1014.7 CONFIDENTIALITY

(a) A critical responsibility of Peer Support Team members is the promotion of trust, anonymity and confidentiality. Therefore, communications between a Peer Support Team member and an employee being assisted are considered privileged and confidential by the Department <u>except</u> under the following circumstances:

1. Criminal Acts are involved, or
2. The employee, through words or actions, indicates that there is a clear and present danger to himself/herself, citizen(s), or fellow employees, or
3. Any circumstances in which mandated reporting laws take precedence.

(b) Peer Support Team members have no legally protected privilege of patient confidentiality in regards to court testimony. Team members shall not make or maintain any notes of their communications. Statistics will be maintained on Peer Support Team responses, but content and nature of conversation(s) will be specifically excluded.

(c) A violation of confidentiality, except as mandated by law, is grounds for immediate removal from the Peer Support Team. The Peer Support Team Coordinator, Peer Support Team Manager, or the Peer Support Team Mental Health Professional may

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recommend removal of any Peer Support Team member to the Chief of Police whose decision shall be final.

1014.8 REVISIONS

Enacted: August 19, 2008

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Personnel Records

1015.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

1015.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.3.1, 26.1.8, 82.1.1

1015.2 PERSONNEL FILES DEFINED

Pursuant to Penal Code § 832.8, peace officer personnel records shall include any file maintained under an individual officer's name relating to:

(a) Personal data, including marital status, family members, educational and employment history, or similar information.

(b) Medical history including medical leave of absence forms, fitness for duty examinations, workers compensation records, medical releases and all other records which reveal an employee's past, current or anticipated future medical conditions.

(c) Election of employee benefits.

(d) Employee advancement, appraisal, or discipline.

(e) Complaints, or investigations of complaints, concerning an event or transaction in which the officer participated, or which the officer perceived, and pertaining to the manner in which the officer performed official duties.

(f) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

1015.3 [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).

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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).
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.

1015.4 CONFIDENTIALITY OF ALL PERSONNEL FILES

Pursuant to Penal Code § 832.7, all of the above-defined personnel records shall be deemed confidential and shall not be subject to disclosure except pursuant to the discovery procedures set forth in Evidence Code § 1043, et seq. or in accordance with applicable federal discovery laws. Nothing in this section is intended to preclude review of personnel files by the City Manager, City Attorney or other attorneys or representatives of the City in connection with official business.

1015.5 TRAINING FILE

An individual training file shall be maintained by the Personnel and Training Administrator 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 Personnel and Training Administrator or immediate supervisor with evidence of completed training/education in a timely manner.

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(b) The Personnel and Training Administrator or supervisor shall ensure that copies of such training records are placed in the member's training file.

1015.5.1 RELEASE OF CONFIDENTIAL INFORMATION

Except as provided by this policy or pursuant to lawful process, no information contained in any confidential peace officer personnel file shall be disclosed to any unauthorized person(s) without the expressed prior consent of the involved officer or written authorization of the Chief of Police or his or her designee.

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor (Penal Code § 146e).

Pursuant to Penal Code § 832.7(e), the disposition of any citizen's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall be limited to the disposition and shall not include what discipline, if any was imposed.

The Department may also release any factual information concerning a disciplinary investigation if the officer who is the subject of the investigation (or the officer's representative) publicly makes a statement which is published in the media and which the officer (or representative) knew to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7(d)).

1015.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Internal Affairs 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 Internal Affairs Unit supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member's file but will be maintained in the internal affairs file:

(a) Not sustained

(b) Unfounded

(c) Exonerated

Investigation files arising out of sustained civilian's complaints involving misconduct shall be maintained pursuant to the established records retention schedule and for a period of at least 15 years. Investigations that resulted in other than a sustained finding may not be used by the [Department/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).

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Investigation files arising out of a civilian complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and for at least five years (Penal Code § 832.5).

1015.7 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.

1015.7.1 DEPARTMENT FILE

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

(a) Performance evaluation reports regularly completed by appropriate supervisors and signed by the affected employee shall be permanently maintained.

(b) Commendations shall be retained in the employee's Personnel file with a copy provided to the involved employee.

(c) Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status shall be permanently retained.

(d) A photograph of the employee shall be permanently retained.

1015.7.2 DIVISION FILE

The Division File shall only contain Supervisory Notes & Observation (SNO) log entries and other documentation that serves as preparatory material for Performance Evaluations (refer to the Evaluation of Employees policy).

(a) All SNO log entries shall be provided to the employee prior to being placed in the file in accordance with Government Code § 3305 and 3306.

(b) Once the permanent performance evaluation form has been made final and is designated to be filed in an employee's Personnel File, the associated SNO log entries and preparatory material shall be purged in accordance with this policy and Policy Manual § 1002.4.1.

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(c) All rules of confidentiality and disclosure shall apply equally to the Division File.

1015.7.3 INTERNAL AFFAIRS FILE

The Internal Affairs Unit file shall be maintained under the exclusive control of the Internal Affairs 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 supervisor of the Internal Affairs Unit. Each investigation file shall be sequentially numbered within a calendar year (e.g. yy-001, yy-002, etc.). Each file contained in the Internal Affairs Unit File and as defined in this policy shall be maintained no less than five years (Penal Code § 832.5(b) and Government Code § 34090). These files shall contain:

(a) The complete investigation of all complaints of employee misconduct regardless of disposition. Investigations that result in other than a "sustained" finding shall be maintained for the minimum statutory period, but may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5 (c)).

(b) Disciplinary action.

(c) Administrative Reviews that include:

- Early Identification and Intervention System Reviews
- Police Service Dog Contact Packets
- Documented Oral Counseling
- Lawsuits
- Pitchess motions
- City claims
- Blue Team entries
- Vehicle pursuits

1015.8 PURGING OF FILES

Formal citizen complaints and all related files not pending litigation or other ongoing legal proceedings may be purged no sooner than five years from the underlying complaint date. (Penal Code § 832.5)

All other disciplinary files and investigations of non-citizen initiated complaints not pending litigation or other ongoing legal proceedings may be purged no sooner than five years from the underlying complaint date. (Government Code § 34090; and Government Code § 26202)

Each supervisor responsible for completing the employee's performance evaluation shall also determine whether any prior sustained disciplinary file should be retained beyond the statutory period for reasons other than pending litigation or other ongoing legal proceedings.

(a) If a supervisor determines that records of prior discipline should be retained beyond the applicable statutory period, approval for such retention shall be obtained through the chain of command from the Chief of Police.

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(b) During the preparation of each employee's performance evaluation, all complaints and discipline should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. If, in the opinion of the Chief of Police, a complaint or disciplinary action beyond the statutory retention period is no longer relevant, all records of such matter may be destroyed pursuant to resolution.

1015.8.1 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).

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.

1015.8.2 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).

1015.8.3 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).

1015.8.4 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 though a public records request (Penal Code § 13683).

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Records disclosed may be redacted as provided in Penal Code § 13683.

1015.9 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.

1015.10 MEMBERS' ACCESS TO THEIR PERSONNEL RECORDS

Any member may request access to the member's own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from the member's personnel records shall file a written request to the Chief of Police through the chain of command. The [Department/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 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

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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.

1015.11 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 Internal Affairs 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.

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3. A sustained finding involving a complaint that alleges unreasonable or excessive force.
4. A sustained finding that [an_officer-deputy] failed to intervene against another [officer-deputy] 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:

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 [DepartmentOffice] 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)).

1015.11.1 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

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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

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)).

1015.11.2 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 180 days after the date of the [department/office]'s discovery of the misconduct or use of force or allegation of misconduct or use of force

1015.11.3 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.

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(b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.

1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:

(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)).

1015.12 REVISIONS

Enacted: December 17, 2007

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Early Identification and Intervention System

1016.1 PURPOSE AND SCOPE

The Hayward Police Department established an Early Identification and Intervention System (EIIS) in order to mitigate risk posed to the Police Department, its employees, and the community. EIIS is intended to be a positive program designed to aid supervisors and managers with identifying employee or organizational behavior and/or performance that may benefit from intervention before it results in injuries, lawsuits, discipline, or other negative consequences. EIIS is not a disciplinary tool; rather, it is intended to assist employees by offering counseling, training, monitoring, and/or other resources to achieve desirable outcomes beneficial to the organization and the community.

1016.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 35.1.9

1016.1.2 DEFINITIONS

The Early Intervention and Identification System (EIIS) is designed to alert supervisors and managers to potential risk incurred by an employee or group of employees that may require review. In addition, EIIS may identify patterns of concern that may require policy and/or training review. Supervisors and managers are charged with analyzing the data provided in the EIIS model and recommending those employees whose behavior and/or performance may benefit from selection for intervention.

The Hayward Police Department has purchased and installed risk management software that is designed to be highly secure at both the database level and the application level. Additionally, the software is designed to report, store, and track employee and organizational statistical information deemed appropriate by the Chief of Police. The risk management software and its associated components are managed and administered by the Hayward Police Department Internal Affairs Unit. The Early Intervention (EI) module contained within the risk management software has alert thresholds established by the Department in order to aid in the identification of employees who may benefit from intervention. An alert generated by the EI module will trigger a review of the affected employee's behavior and/or performance in accordance with the EIIS model described below.

1016.1.3 RECORD CONFIDENTIALITY & RETENTION

Information contained in the risk management software is confidential as part of the employee's personnel file and will not be subject to discovery except as provided by law. Supervisors and managers may have limited access to information contained in the risk management software as determined by the Chief of Police or his/her designee. In addition, supervisors and managers may contact the Internal Affairs Unit manager to review subordinate records except as prohibited by law or policy. Employees may review their own personal data by contacting the Internal Affairs Unit manager to set up an appointment. Information contained in the risk management software and its components will be purged as determined by the Chief of Police and in accordance with current law and the Personnel Files Policy.

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1016.2 EARLY IDENTIFICATION AND INTERVENTION PROCEDURE

The components of EIIS include Performance Indicators; Identification and Selection; and Intervention. Refer to the EIIS flow chart for guidance.

1016.2.1 PERFORMANCE INDICATORS

Performance Indicators represent the category of employee performance activity that the Hayward Police Department has selected to monitor. Alert thresholds are set in the EI module based on the category of incident, employee assignment, and other factors the Hayward Police Department has determined relevant in identifying potential risk. Incidents used as indicators in the EI module may include, but are not limited to:

- Citizen Complaints
- Citizen Inquiries
- Claims, Lawsuits, or other Civil Actions
- Firearms Discharges
- Internal Investigations
- Pitchess Motions
- Use of Force
- Vehicle Pursuits and Collisions
- Combinations thereof

There are other Performance Indicators not maintained in the EI module that may be considered and may include, but are not limited to:

- Attendance
- Commendations
- Performance Evaluation Expectations and Dimensions
- Policy Compliance
- Supervisor Notes and Observations
- Training and Experience
- Worker's Compensation Claims
- Work Production and Quality
- Combinations thereof

1016.2.2 IDENTIFICATION AND SELECTION

The EIIS model may present alerts contained in the EI module or other performance indicators outside the EI module that may warrant supervisory review. The EI module will detect performance activity based on the numerical thresholds assigned to specific incidents detailed in the software

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and electronically alert the Internal Affairs Unit manager. The Internal Affairs Unit manager will advise the affected employee's supervisor, manager, and Division Commander of the alert. Alternately, other performance indicators outside the EI module may be detected by the affected employee's supervisor(s) and/or manager(s).

In either case, the affected employee's supervisor and manager will review and analyze the substance of the alert(s), indicator(s), and associated documentation to determine if the affected employee may benefit from intervention. A non-disciplinary interview may be conducted with the employee to aid the supervisor and manager in determining if an intervention is appropriate.

The affected employee's manager will make a recommendation to his/her Division Commander who is charged with making the final determination as to whether an intervention is warranted. If an intervention is not warranted, the Division Commander or his/her designee shall notify the Internal Affairs Unit manager to document such in the EI module if applicable. If the Division Commander selects the affected employee for intervention the employee shall be notified as soon as practical. Factors considered for selection may include, but are not limited to evaluation of the Performance Indicators listed above.

1016.2.3 INTERVENTION

If an employee is selected for intervention, the employee's supervisor and manager will be responsible for developing and implementing a plan with the approval of the Division Commander. The plan may consist of one or more of the following three strategies that may include, but are not limited to counseling, training, and/or monitoring. Interventions shall be documented on a memorandum. If the selected intervention is a Performance Improvement Plan, it will be designed and administered in accordance with the Performance Improvement Plans policy. The documentation shall be forwarded to the Internal Affairs Unit manager for entry into the EI module and/or the affected employee's personnel file.

Counseling may include, but is not limited to the following:

- EAP Referral
- Fitness for Duty Evaluation
- Other Health Services Referral
- Peer Support Team
- Supervisor Counseling

Training may include, but is not limited to the following:

- Anger Management
- Arrest and Control
- Diversity
- Driver / Pursuit

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- Firearms
- Legal Update
- Less than Lethal
- Other Training
- Physical Fitness
- Scenario
- Sexual Harassment
- Soft Skills / Tactical Communication
- Voluntary Reassignment

Monitoring may include, but is not limited to the following:

- Supervisor random or scheduled audits of employee behavior and/or performance
- Written Performance Improvement Plan (PIP) in accordance with current policy

1016.2.4 POST INTERVENTION MONITORING
Once the intervention plan has been completed, the supervisor, manager and Division Commander will review the employee's performance on a quarterly basis to ensure that the plan has been successful. As a guide, this quarterly review should last for a twelve month period, but may be more or less depending upon the circumstances.

1016.3 ORGANIZATIONAL INTERVENTION

EIIS may reveal an organizational need to review and modify training, policies, procedures, monitoring and/or equipment that affect the risk exposure of the Department, its employees, and/or the community. Any employee that identifies such a need may bring it to the attention of the Hayward Police Department Command Staff via their chain of command for review and action.

1016.4 EIIS AUDITS

At least once annually, the Internal Affairs Unit will conduct an audit of the Early Identification and Intervention System.

1016.5 REVISIONS

Enacted: December 15, 2007

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Request for Change of Assignment

1017.1 PURPOSE AND SCOPE

The purpose of this procedure is to establish a consistent and fair process for the selection of personnel to fill special assignment positions. It also establishes minimum qualifications, length of assignment, process for selection, and the manner in which exceptions to this policy will be administered. This order applies to all special assignments for employees through the rank of Officer. The process for selection of special assignments for the rank of Sergeant and Lieutenant are described in the Procedure section below.

1017.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 16.2.3, 41.1.1

1017.2 PROCEDURE

Each Division will establish an annual eligibility list for special assignments anticipated to become available during the course of the upcoming year. The process for establishing annual eligibility lists shall coordinate with annual shift bid processes for the Patrol Division so as to minimize disruption for employees vying to transfer to or from special assignments and patrol shifts. Annual eligibility lists help facilitate prompt filling of anticipated and unanticipated special assignment vacancies. Circumstances may occasionally occur when an unanticipated opening occurs for a special assignment, and there is no active or viable eligibility list in place. In such cases, isolated or mid-cycle processes to fill unanticipated vacancies may occur at the direction of the affected Division Commander according to applicable policies and procedures herein.

1017.2.1 SERGEANTS, LIEUTENANTS AND OFFICE OF INTERNAL AFFAIRS

Special assignments for the rank of Sergeant and Lieutenant may be made any time at the discretion of the Chief of Police, according to the operational needs of the Department. Sergeants and Lieutenants shall submit a Request for Transfer pursuant to the Process section of this policy.

Staff appointments to assignments in the Office of the Chief of Police (i.e. assignments in the Personnel and Training or Internal Affairs Units) shall be made directly by the Chief of Police.

1017.3 ELIGIBILITY

Any employee, except when otherwise outlined herein, may apply and participate in a special assignment selection process for a position within their rank or job classification. Successful applicants will be placed on an eligibility list, from which selections may be made to fill vacancies until the next annual process establishes a new eligibility list. Employees who do not meet eligibility requirements may elect to participate in the testing process for experience and development, or in anticipation of future eligibility, except employees actively under disciplinary action or review. Only the employees who meet all applicable requirements for the assignment will be eligible for actual selection at the time selections are made. To qualify for selection to a special assignment position, an employee must:

(a) Be off probation;

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(b) Have fulfilled the minimum commitments of their current duty assignments unless otherwise waived by the Chief of Police;

(c) Have fulfilled at least a one-year rotation back to their primary assignment (i.e., patrol, jail, records) after completing a previous special assignment (except as specified in this policy).

1017.3.1 ELIGIBILITY REQUIREMENT EXCEPTIONS

(a) Employees who are the subject of a current disciplinary reassignment, on suspension, or on a performance improvement plan at the time of the opening will not be selected to serve in a special assignment.

(b) Employees who are physically unable to perform the special assignment duties at the time of the vacancy for reasons such as pregnancy, military leave, illness, injury, or on restricted duty may be passed over due to the operational needs of the organization.

(c) Employees currently or recently serving in a special assignment are eligible to be selected for a tandem special assignment without being subject to the one-year rotation. The tandem assignment must be closely related. The one-year rotation requirement may be waived for a current or recent tandem assignment as follows:

1. From an internal Narcotics Detective assignment to an assignment on the Alameda County Narcotics Task Force.

2. From a generalist Detective assignment in the Criminal Investigations Bureau to an assignment to the Robbery-HomicideUnit.

   (a) Selection of Detectives to the Robbery-Homicide unit shall be handled separately from the process for selecting other investigative assignments in the Criminal Investigations Bureau. This investigative discipline requires the highest level of training and expertise; selection criteria shall include the candidate's demonstrated investigative acumen, mastery of legal and investigative procedure in other areas, and ability to handle complex situations.

3. From a Special Duty Unit enforcement officer to the Vice-Intelligence or Narcotics Unit.

4. From a School Resource Officer assignment to selection to the Criminal Investigations Bureau - Special Victim's Unit.

(d) The Police Chief may waive the one-year rotation requirement for any employee whose previous service in a special assignment was not completed due to unforeseen circumstances such as funding cuts or non-disciplinary transfers.

(e) The one-year rotation back to primary assignment does not apply to sworn or civilian supervisors or administrators, given the constant organizational need to broaden and diversify leadership ranks and positions.

(f) Probationary employees may be selected to fill the auxiliary special assignment of Explorer Advisor.

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(g) The one-year rotation to primary assignment does not apply to "ancillary" special assignments as described in this policy.

(h) Field Training Officers must fulfill their minimum time commitment of two years to the Field Training Program before selection for a non-ancillary special assignment.

(i) Canine handlers are prohibited from selection to Field Training Officer assignments.

1017.3.2 APPOINTMENT AUTHORITY AND DISCRETION

The Chief of Police shall reserve the right to directly assign any employee to any position consistent with their rank or service ability, based on the needs and in the best interest of the Department.

1017.4 PROCESS

1017.4.1 ROUTING PROCEDURE

(a) Applicants will submit the original Request for Transfer (RTF) through the chain of command to their current Division Commander.

(b) The employee's immediate supervisor shall review the RTF to ensure the employee meets the minimum requirements for participating in the testing process for the assignment. The supervisor shall provide their endorsement, or make a recommendation to disqualify the employee. The reason for a disqualifying recommendation will be clearly articulated in the comments section of the application. The supervisor shall forward the original application to the employee's administrator or manager. Supervisors may endorse the application of employees who are not yet eligible for selection to the assignment, but who may benefit the experience of the testing process.

(c) The applicant's administrator or manager shall either endorse or make a disqualifying recommendation and then forward the original to the employee's Division Commander.

(d) If the applicant's Division Commander is different than the commander of the division where the special assignment opening exists, the applicant's Division Commander shall endorse or recommend disqualification, and then forward the application to the appropriate Division Commander.

(e) The Division Commander where the opening exists will make the final determination whether the employee will be permitted to participate in the selection process. If the employee is not permitted to participate in the process, his/her application and accompanying comments will be forwarded back to the employee.

1017.4.2 SELECTION PROCESS FOR INDEFINITE TERM POSITIONS (SENIOR DETECTIVE)

The following procedure is applicable only to Indefinite Term Positions:

(a) There will be a total of six (6) Indefinite Term Positions (Senior Detective) in four (4) different Investigation’s Units.Two (2) in the Robbery-Homicide Unit, one (1) in the Special Victims’ Unit (SVU), two (2) in the Property Unit, and one (1) in the Vice-Intelligence Unit.Each Unit will have its own separate test for their Senior Detective position(s).

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(b) Minimum qualifications to test for the Senior Detective position is as follows:

1. Senior Robbery-Homicide Detectives must have a minimum of two years of experience assigned as a homicide detective at Hayward PD or another law enforcement agency.
2. Senior SVU and Property Detectives must have a minimum of two years of experience assigned as a detective to a criminal investigation's bureau at Hayward PD or another law enforcement agency.
3. Senior Vice-Intelligence Detectives must have a minimum of two years of experience assigned as a vice-intelligence detective at Hayward PD or another law enforcement agency.

(c) The testing process at a minimum will include a Structured Oral Board Interview and a review of the applicant's personnel file.

(d) Once selected as a Senior Detective within a specific unit, the Senior Detective will not be allowed to test to become a Senior Detective in a different unit.The Senior Detective position was created to provide mentoring and training to investigators and maintain unit experience and continuity in each specific unit.

(e) The Senior Detective position will be treated like any other special assignment.All sworn employees can test for the established Senior Detective position in each unit(s), provided they meet the minimum qualifications and are not currently a Senior Detective.

Senior Traffic Officer

(a) There will be a total of two (2) Indefinite Term Positions for (Senior Traffic Officer). The Senior Traffic Officer positions are performance based and will include an annual evaluation. The positions are not in addition to currently allowed staffing levels.

(b) Minimum qualifications to test for the Senior Traffic Officer position is as follows:

• Minimum 2 years of experience assigned as a Traffic Officer at Hayward PD or another law enforcement agency.

• Completed Traffic courses minimally including collision reconstruction and auto-pedestrian.

• Have fulfilled the minimum commitments of their current duty assignment(s) unless otherwise waived by the Chief of Police

• In good standing and currently meeting or exceeding expectations in their primary duty assignment

• Able to work in a close team environment

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• Able to demonstrate a history of sound judgment

• Experience working complex investigations

• Ability to work a flexible schedule.

• Excellent organization and communication skills

• Strong leadership skills and the ability to maintain unit cohesion

• Ability to collaborate with our community and a variety of public agency partners

• Excellent problem-solving skills

• Demonstrated ability to coach/mentor

• Ability to lead by example

(c) The testing process at a minimum will include a Structured Oral Board Interview and a review of the applicant’s personnel file.

(e) The position will be treated like any other special assignment. All sworn employees can test for the established Senior Traffic Officer position, provided they meet the minimum qualifications and are not currently a Senior Traffic Officer.

1017.4.3 SELECTION PROCESS FOR NON-SUPERVISORY OR ADMINISTRATIVE LEVEL ASSIGNMENTS

The following procedure is applicable only to line level special assignment positions:

(a) The Division Commander where the special assignment opening exists, or his or her designee, shall convene an interview panel to assess the candidates' qualifications, preparedness, and fit.

(b) The supervisor of the affected unit will examine the applicant's personnel file, including relevant performance evaluations and relevant records of Internal Affairs inquiries. The supervisor may also contact the applicant's current and previous supervisors for anecdotal information in support of performance records.

(c) An eligibility list will be established placing the applicants into one of three areas:

1. Highly Qualified;
2. Qualified; or
3. Not Qualified.

(d) If there is only one applicant, the applicant must still complete the process to establish his or her qualifications.

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(e) The selection panel will forward results and recommendations to the Division Commander. The Division Commander shall insure all candidates are notified of the results and are provided an opportunity to receive feedback.

(f) The Division Commander will bring the results to the executive team for discussion of all special assignments with the final appointment made by the Chief of Police.

(g) When there is a lack of qualified applicants, the Chief of Police may make appointments as necessary taking into account employee skills, experience, and the needs of the particular assignment.

(h) Once a selection or selections have been made for a particular special assignment, the eligibility list will remain valid for 12-months or until the following annual process establishes a new list, whichever comes first.

(i) If the eligibility list is exhausted or the remaining employee(s) on the list is/are later found to be unsuitable for the assignment, a new eligibility list may be created following the procedure outlined herein, or an immediate appointment can be made by the Chief of Police upon his/her discretion.

All original documents related to the selection process will be forwarded to and maintained by the Personnel and Training Bureau Administrator.

1017.5 LENGTH OF ASSIGNMENTS

Except as indicated for exception under this policy, the duration of all line level and supervisory level special assignments will be limited to three years and the duration of all administrative level special assignments (i.e. those held by Lieutenants) will be limited to two years in length. Employees continued service in a special assignment will be assessed annually and will be based on merit performance.

(a) When an employee wishes to relinquish the assignment earlier than meritoriously allotted, and when that relinquishment will result in an unanticipated return to the Patrol Division during the following year for which there will be a patrol shift bid, the employee shall give notice in writing prior to the commencement of the shift bid process in order to be included in and exercise seniority bidding in the following year's patrol shift selection.

(b) Other than disciplinary removal, any supervisor wishing to remove an employee from a special assignment, and when that removal will result in the employee's unanticipated return to the Patrol division during the following year for which there will be a shift bid, the supervisor must give written notice to the employee prior to the commencement of the shift bid process in order for the employee to be included in the following year's shift selection process.

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(c) The Chief of Police has the authority to extend the duration of any special assignment based on the needs and in the best interest of the Department.

1017.5.1 EXTENDED ASSIGNMENTS

Indefinite Term Positions (Senior Detective)- Assignments are performance based and are evaluated on an annual basis. Indefinite Term Positions may be extended annually, after a review of the employee's performance evaluation upon recommendation of the employee's supervisor, concurrence with the Unit/Division Commander and final approval by the Chief of Police. The Chief of Police has complete discretion to remove an employee from an Indefinite Term Position based on organizational needs.

Six (6) Indefinite Term Positions have been authorized in the Investigations Division.Two (2) in the Robbery-Homicide Unit, one (1) in the SVU, two (2) in the Property Crimes Unit, and one (1) in the Vice-Intelligence Unit (1).

The Investigations Division Commander, with approval from the Chief of Police, has the discretion to continue or discontinue any and all Indefinite Term Positions based upon organizational needs.

a. The assignment of canine handlers will be up four to years and may be extended beyond four years based on the serviceability of their police service canine. Supervisors of the canine unit shall be subject to the assignment limit of up to three years, based on merit.

b. Traffic motorcycle officers may continue in the assignment for a fourth year for successful completion of advanced accident investigation courses, and up to two additional years for successful completion of accident reconstruction courses. The maximum length of assignment as a Traffic Motorcycle Officer shall be (6) years.

c. Detective assignments in the Investigations Division will be up to five years, based on meritorious performance.The assignment for the Alameda County Narcotics Task Force will be up to three years.

d. Detectives selected to serve in the Homicide/Robbery Unit will serve up to five years. If the applicant is selected directly from a current assignment as a generalist detective, the length of the subsequent selection may be mitigated downward according to the number of years served in the current generalist assignment preceding the selection to the Homicide/Robbery Unit.Bureau supervisors and managers, at the direction of the Division Commander, will assess the need to mitigate according to what is best for the employee's development and for succession planning.

e. Special Response Unit members may be extended indefinitely. Annually, the unit commander will make an ongoing assessment of member proficiency and team needs. Any member may be removed from the team upon acceptance of a promotion in order to maintain balanced staffing of the unit.To ensure a high degree of continuity and leadership of the high profile, high liability, and complex nature of both the Special Response Unit and the Canine Unit, the length of assignment for the Special Operations Lieutenant overseeing those units shall be up to three years. Based on the needs of the Department, the Chief of Police may extend the duration of the Special Operations Lieutenant assignment one additional (fourth) year.

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f. District Command Unit assignments will be for up to five years, based upon performance.

1017.5.2 ANCILLARY ASSIGNMENT DURATIONS
Ancillary assignments are a minimum of two years and shall be reviewed annually thereafter by the manager or supervisor of the ancillary assignment. Personnel may continue their assignment based on merit performance and supervisor recommendation.Ancillary assignments are defined as secondary or additional duties or responsibilities, projects, or assignments concurrent with an employee's primary duties, including but not limited to membership on the Special Response Unit, as a field training officer, UAS Operator, explorer advisor, committee member, department instructor or coordinator of a special project or program.

(a) Notwithstanding the extended assignment of canine handlers as specified in this policy, the sergeant supervising the canine unit as an ancillary duty shall be subject to the three year limit specified in this policy, based on merit performance.

(b) The sergeant supervising the Field Training Program as an ancillary duty shall still be subject to a three year limit.

(c) Field Training Officers may continue their assignments beyond two years based on merit performance and the recommendation of the sergeant supervising the Field Training Program as well as the lieutenant serving as the Field Training Administrator.

1017.6 REVISIONS
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Request for Change of Assignment

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Awards and Commendations

1018.1 PURPOSE AND SCOPE

Special recognition may be in order whenever an employee performs his/her duties in an exemplary manner. This procedure provides general guidelines for the commending of exceptional employee performance. It shall be the policy of the Hayward to recognize and reward the outstanding performance of its employees. The selection of employees for these awards and commendations shall be based upon either a specific act, or outstanding performance provided to the public.

Additionally, the Department honors those citizens of the community who substantially assist the Department in an extraordinary manner beyond their normal civic responsibilities.

1018.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 26.1.2

1018.2 COMMENDATIONS AND MEDALS

(a) **The Medal of Valor -** May be awarded to any employee who has demonstrated extreme courage and bravery above and beyond that expected during the course of duty. The employee was exposed to grave danger with full and unquestionable knowledge of the danger involved, or where a reasonable person would assume their life was in danger, and their objective was of sufficient importance to justify the risk involved. Under such circumstances, the failure to expose one's self to such risks would not justify censure, and the recipient either accomplished the task or was prevented from doing so by incurring a disabling injury or death.

(b) **Distinguished Service Medal -** May be awarded to any employee who is distinguished by conspicuous bravery in the performance of duties under unusual, complicated, or hazardous conditions, and where the employee uses excellent judgment in accomplishing the mission, including sustaining human life.

(c) **Lifesaving Medal -** May be awarded to any individual who, while serving in an official capacity with their law enforcement agency, performs a distinct and successful lifesaving of another human being. The award shall be for personally performing urgently required "hands-on" action(s) in the life-saving effort. The award is dependent upon the individual's successful recovery and discharge from the hospital.

(d) **Certificate of Recognition -** May be given to an individual or unit for performing an administrative or operational activity that provided a great service to the community. A copy of the certificate shall be forwarded to the employee's personnel file.

(e) **Commendations -** Are written descriptions of meritorious work or any work worth of recognition on the part of an employee that can be initiated by any employee and forwarded to the Chief of Police, via the chain of command. A copy of each commendation approved by the Chief of Police shall be forwarded to the employee's personnel file.

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(f) **Employee of the Month -** Are written descriptions of meritorious work or any work worth of recognition on the part of an employee that can be initiated by any employee and forwarded to the Chief of Police, via the chain of command. A copy of the Employee of the Month commendation approved by the Chief of Police shall be forwarded to the employee's personnel file.

(g) **City of Hayward Heart of Service Award -** Are written descriptions of meritorious work or any work worth of recognition on the part of an employee that can be initiated by any employee and forwarded to the Human Resources Department, via the chain of command. A copy of the Heart of Service Award commendation approved by the Chief of Police shall be forwarded to the employee's personnel file.

(h) **Chamber of Commerce Officer of the Year -** May be awarded to any employee who is distinguished by meritorious work or any work worth of recognition on the part of an employee that can be nominated by any employee and forwarded to the City of Hayward Chamber of Commerce, via the chain of command. A copy of the Chamber of Commerce Officer of the Year nomination form shall be forwarded to the employee's personnel file.

(i) **City of Hayward Good Citizen Award -** May be awarded to any citizen who distinguishes himself or herself by bravery while assisting an officer and/or another member of this community; or who performs an act under emergency conditions; wherein a service is rendered that results in sustaining a human life or preventing serious bodily harm. The award is in the form of a letter, certificate or plaque.

1018.3 PROCEDURE

An Awards and Commendations Board is hereby established, and is responsible for evaluating and classifying commendation reports and for recommending appropriate action to the Chief of Police.

1018.3.1 MEMBERSHIP OF BOARD

The Board is comprised of four members representing the Divisions, the Office of the Chief of Police and the employee labor association. Allocation of membership is as follows:

- One representative from Patrol
- One representative from Criminal Investigations
- One representative from the Support Services
- One representative from the Office of the Chief
- One representative from the employee labor association.

The representative from the Office of the Chief will chair the board. The representative is a non-voting member with the exception of tie-breaking votes. The representative may also be considered as the final member in order to establish a quorum.

Representatives are determined by first requesting names of nominees who wish to serve on the Board. Anyone requesting to serve on the Board shall submit a request to their Division Commander. The Chief of Police and Division Commanders will then appoint one representative

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from their specific Division. Bi-annually, employees shall be notified of the upcoming nomination process, unless circumstances arise where nominations need to take place prior to the two year term.

1018.3.2 TERM OF MEMBERSHIP
Each of the representatives will serve on the Board for a period of two years.

1018.3.3 NUMBER REQUIRED FOR QUORUM
At least three of the four representatives must be present to vote on commendation reports. Each representative will have one vote.

1018.3.4 FREQUENCY OF MEETINGS
The Board will meet regularly at the call of the chairperson to review such commendation reports as are forwarded according to the prescribed procedures.

1018.3.5 SECRETARIAL SUPPORT
Secretarial and clerical support is provided by the Office of the Chief of Police.

1018.3.6 RECOMMENDED POLICY CHANGES
The Board is empowered to make recommendations to the Chief of Police in regards to proposed policy changes pertaining to this policy.

1018.3.7 ELIGIBILITY AND NOMINATION
All Department members (including reserve Officers and Professional Staff) are eligible within their respective award categories. Nomination is in accordance with the following procedures.

SOURCE OF NOMINATION: Nominations for awards may come from any individual within or outside the Department.

METHOD OF NOMINATION: When a Department member performs an act worthy of consideration of a Departmental award, it is submitted on a regular interdepartmental memorandum form that is forwarded to the commanding officer of the nominee's unit. Included in this memorandum is full documentation of the incident (including police report number if filed) and the full name and Department badge number (as appropriate) of the person commended. If more than one person participated in the meritorious act, all names are included in the single memorandum form along with the circumstances of the event in chronological sequence: charts, diagrams or photographs, if warranted, due to unusual circumstances.

If the nomination comes from an outside source, it should have sufficient information to satisfy the requirements set forth within this policy.

COMMANDING OFFICER'S RESPONSIBILITY: The nominee's command officer will review the report and forward it to the Awards and Commendations Board, which is responsible for evaluating, classifying, formally preparing commendation reports and recommending appropriate action to the Chief of Police.

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1018.3.8 AWARDS COMMITTEE PROCEDURES
The Awards and Commendation Board will evaluate the basis of nomination for the awards from all nominations submitted and will recommend which type of award or commendation is merited, if any, in each case. It may also conduct any necessary additional investigation of the incident.

1018.3.9 REVIEW OF RECOMMENDATIONS
The chairperson, or an agent of the chairperson, will review all nominations for completion and accuracy and return, if necessary, to the originator.

1018.3.10 PLACEMENT IN PERSONNEL FILE
The Board may return a nominee's name to the Division Commander, recommending that the letter for commendation be inserted in the individual's personnel file. The Board may add its own Letter of Commendation to that of the original.

1018.3.11 SELECTION OF RECIPIENTS
The Awards and Commendation Board will select the members to receive awards. A simple majority vote of Board members will decide.

1018.3.12 OBTAINING APPROVAL OF THE CHIEF OF POLICE
The Board will present its findings to the Chief of Police for approval.

1018.3.13 DISAPPROVAL BY THE CHIEF OF POLICE
The Chief of Police may disapprove of the Board's recommendation; however, if this occurs, the Board and the Chief of Police will meet to discuss the recommendation.

1018.3.14 ABSTENTION FROM VOTING
Any member of the Board may request to be excluded in consideration of a nominee for an award if the member feels biased or prejudiced toward the nominee.

1018.4 AWARD AND COMMENDATIONS PRESENTATIONS
The Chief of Police will present approved awards at the earliest opportunity. Awards presented to citizens may be made by the Chief of Police or his/her designee. Wall plaques are permanently displayed within the Department with the names of officers awarded the Police Medal of Valor and the Distinguished Service Medal. The news media will be advised as to the recipients of these awards.

1018.5 AWARD AND COMMENDATIONS CEREMONY
A review of those receiving awards during the prior year is made during ceremonies at an annual Awards and Commendations Ceremony hosted by the Chief of Police or his/her designee.

The Awards and Commendations Board will plan and direct the Awards and Commendations. Representatives of the City and news media are specifically invited to attend.

1018.6 REVISIONS
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Awards and Commendations

Revised: July 8, 2009

Revised: August 13, 2010

Revised: April 9, 2013

Revised: April 22, 2014

Revised: September 19, 2014

Revised: May 23, 2016

Revised: January 23, 2018

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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 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.2.1, 22.3.1, 22.3.2, 52.2.6, 52.2.7

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 Commander, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.

(e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

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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 Commander, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the well-being 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.

1019.6.1 HEALTH SCREENINGS

The nature of some specific positions or responsibilities may necessitate periodic specific health screenings, such as those for crime scene personnel or firearms instructors who are repeatedly exposed to hazardous chemicals or lead contaminates.

A health screening or physical examination should only be conducted to confirm the employee's continued fitness to perform the tasks of their assignment and to inform them of their general physical condition.

Should the Department request an employee to have a health screening or physical examination performed, the Department will provide it at no cost to the employee.

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 Standards of Conduct policy.

1019.9 REVISIONS

Enacted: December 17, 2007

Revised: July 8, 2009

Revised: February 7, 2010

Revised: August 13, 2010

Revised: May 23, 2016

Revised: May 5, 2017

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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 and in accordance with the employee's MOU.

1020.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

1020.1.2 15 MINUTE BREAKS

Each employee is entitled to a 15-minute break, near the midpoint, for each four-hour work period. Only one 15-minute break shall be taken during each four hours of duty. No breaks shall be taken during the first or last hour of an employee's shift unless approved by a supervisor. Field officers will take their breaks in their assigned areas, subject to call and shall monitor their radios. When field officers take their breaks away from their vehicles, they shall do so only with the knowledge and clearance of the police dispatcher.

1020.1.3 MEAL PERIODS

Sworn employees, Communications Operators, District Command CSO's, Traffic Bureau CSO's, Animal Control Officers and Crime Scene Technicians 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.

Communications Operators are required to remain on-site during their meal break and are subject to being called back into the Communications Center in periods of excessive work volume. Communications Operators cannot leave the building without supervisor approval.

The classifications listed above shall request clearance from the Communications Center prior to taking a meal period and 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.

1020.2 REVISIONS

Enacted: December 17, 2007

Revised: July 8, 2009

Revised: March 16, 2011

Revised: May 23, 2016

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Lactation Break Policy

1021.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child (Labor Code § 1034).

1021.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

1021.2 POLICY

It is the policy of this [department/office] to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing infant child (29 USC § 207; Labor Code § 1030).

1021.3 LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207; 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. Such breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Employees desiring to take a lactation break shall notify the Communications Center or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt [department/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 employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207; Labor Code § 1031).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

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1021.5 STORAGE OF EXPRESSED MILK

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.

1021.5.1 STATE REQUIREMENTS

Employees 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.

Employees who believe that their rights have been violated under this policy or have been the subject of discrimination or retaliation for exercising or attempting to exercise their rights under this policy, are encouraged to follow the chain of command in reporting a violation, but may also file a complaint directly with the Labor Commissioner (Labor Code § 1033).

1021.6 REVISIONS

Enacted: December 17, 2007

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Revised: March 16, 2011

Revised: May 23, 2016

Revised: June 7, 2020

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Payroll Record Procedures

1022.1 PURPOSE AND SCOPE

Payroll records are submitted to the Hayward Police Department Administration on a bi-weekly basis for the payment of wages.

1022.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

1022.1.2 TIME REQUIREMENTS

All employees are paid on a bi-weekly basis usually on Friday with certain exceptions such as holidays. Payroll records shall be completed and submitted to the City Finance Department no later than 8:00 a.m. on the Monday morning before a pay day Friday, unless specified otherwise.

1022.1.3 RESPONSIBILITY FOR COMPLETION OF PAYROLL RECORD

Supervisors are responsible for the accurate and timely submission of payroll records for the payment of wages.

1022.2 RECORDS

The City of Hayward 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).

1022.3 REVISIONS

Enacted: December 17, 2007

Revised: July 8, 2009

Revised: April 25, 2012

Revised: May 23, 2016

Revised: June 7, 2020

Revised: June 25, 2020

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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 the overtime form as soon as practical after overtime is worked.

1023.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

1023.1.2 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 480 hours of compensatory time.

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 Support Services 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 on-duty 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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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., four (4) hours for Court, four (4) hours for outside overtime). The supervisor will enter the actual time worked.

1023.3.1 ACCOUNTING FOR PORTIONS OF AN HOUR

When accounting for less than a full hour, time worked shall be rounded up to the nearest quarter of an hour as indicated by the following chart:

TIME WORKED	INDICATE ON CARD
1 to 15 minutes	.25 hour
16 to 30 minutes	.50 hour
31 to 45 minutes	.75 hour
46 to 60 minutes	1 hour

1023.3.2 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 back of the overtime payment request.

1023.4 REVISIONS

Enacted: December 17, 2007

Revised: July 8, 2009

Revised: April 22, 2014

Revised: May 23, 2016

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Outside Employment

1024.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for department 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/office] who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this [department/office] 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/office] for services, product(s) or benefits rendered.

Outside Overtime - Any member of this [department/office] 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/office] so that the [Department/Office] may be reimbursed for the cost of wages and benefits.

1024.1.2 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.3.3, 22.3.4

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)).

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1024.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Application is denied or withdrawn by the [Department/ Office], the employee may file a written notice of appeal to the Chief of Police within ten days of the date of denial.

If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current Memorandum of Understanding (MOU).

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.

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(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.

1024.3.1 OUTSIDE SECURITY 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/office] may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

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/office] 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.

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.

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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:

(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 Hayward Police Department, a request (in writing) may be made to the Chief of Police to restore the permit.

1024.7 REVISIONS

Enacted: December 17, 2007

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Revised: July 8, 2009

Revised: April 9, 2013

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Military Leave

1025.1 PURPOSE AND SCOPE

This policy establishes guidelines consistent with Federal, State and local law concerning long and short-term military leaves of absence, city salary, benefits and reemployment privileges for eligible employees who are inducted, enlist, ordered or called or who enlist or enter into military duty.

1025.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.2.1, 22.2.8

1025.2 DEFINITIONS

30 Day Period - means the first 30 calendar days of any military leave of absence, except inactive duty training (Drill or Weekend Duty). Military leave begins on the first day of ordered duty and ends on the last day of ordered duty and includes workdays, non-workdays, holidays and reasonable travel time.

Annual Training - means the military duty ordered for purposes of military training, where the period of ordered duty is no more than 17 calendar days annually including time involved in going to and returning from such duty.

Eligible Employee - means an employee who has been in the service of the City for a period of not less than one year immediately prior to the date upon which his/her temporary military leave of absence begins. In determining the one-year of public agency service, all service in the recognized military service shall be counted as public agency service (California Military and Veterans Code § 395.01).

Fiscal Year - means the 12-month period beginning July 1st and ending on June 30th.

Inactive Duty Training (Drill or Weekend Duty) - means the recurring requirement, usually 2 days per month, to perform inactive duty training (drill). Periods of temporary military leave of absence to perform inactive duty training are not eligible for paid military leave (California Military and Veterans Code § 395.01(b)).

Long-Term Military Leave - means a leave of absence from public employment; for any public employee who is a member of the reserve corps of the Armed Forces of the United States or of the National Guard or Naval Militia to engage in military duty ordered for purposes of active military training or inactive duty training, encampment, naval cruises, special exercises or like activity, provided that the period of ordered duty exceeds 180 calendar days, including time involved in going to and returning from that duty.

Official Orders - means all valid written or verbal orders. Official orders are considered valid when issued by a competent military authority.

Salary - means pay that is equal to the regular hourly wage for the days and hours the employee is normally scheduled to work. The hours normally scheduled to work shall not exceed 80 hours per pay period.

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Short-Term Military Leave - means a leave of absence from public employment; for any public employee who is a member of the reserve corps of the Armed Forces of the United States or of the National Guard or Naval Militia to engage in military duty ordered for purposes of active military training or inactive duty training, encampment, naval cruises, special exercises or like activity, provided that the period of ordered duty does not exceed 180 calendar days, including time involved in going to and returning from that duty. (California Military and Veterans Code § 389).

1025.3 ELIGIBILITY

To be eligible for a temporary military leave of absence, an employee must be a member of the United States Army, Navy, Air Force, Marines, Coast Guard, National Guard, Reserves or Public Health Service, or any other category of persons designated by the President in time of war or emergency. (Title 38 USC § 4303)

1025.4 QUALIFYING MILITARY LEAVE

Military leave which qualifies for a leave of absence includes the following:

(a) A temporary military leave of absence for military duty ordered for purposes of active military training, inactive duty training, encampment, naval cruises, special exercises or like activity for an employee serving as a member of a uniformed service. (California Military and Veterans Code § 395.01(a); California Military and Veterans Code 395.01(b)).

(b) A military leave of absence other than temporary military leave of absence is when an employee:

1. Is ordered into active military duty as a member of a reserve component of the armed forces of the United States;
2. Is ordered into active federal military duty as a member of the National Guard or Naval Militia; or,
3. Is inducted, enlists, enters or is otherwise ordered or called into active duty as a member of the armed forces of the United States. (California Military and Veterans Code § 395.02).

1025.5 AMOUNT OF LEAVE AVAILABLE

Eligible employees with qualifying military leave shall be granted an amount of leave consistent with applicable federal, state and local law and this policy.

(a) Temporary Military Leave of Absence: An eligible employee is entitled up to 180 calendar days, including time involved in going to and returning from that duty. (California Military and Veterans Code § 395(a)).

(b) Maximum Limit: There is a 5-year cumulative total of voluntary active duty military service not in support of war, national emergency, or certain operational missions (Title 38 U.S.C. § 4312(c)). Each branch of the military reserves is subject to branch specific

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rules governing voluntary and involuntary calls to active duty. A supervisor will contact an eligible employee's military unit commander to verify the nature of the activation.

1025.6 REQUESTING AND SCHEDULING LEAVE

An eligible employee is expected to be sensitive to Department scheduling requirements when submitting his/her application for orders and shall endeavor to provide advance notification of anticipated temporary military leave of absence as soon as reasonably possible.

(a) **Advance Notice**: Written or oral notification must be provided by the eligible employee to his/her supervisor prior to any temporary military leave of absence, unless precluded by military necessity (Title 38 USC § 4312(a)(1)).

(b) **Official Orders**: An eligible employee is encouraged to provide a copy of orders, the annual drill schedule, or other type of documentation as soon as available and, if possible, before the commencement of military duty. In the event an eligible employee fails to provide the aforementioned documentation, his/her supervisor may contact the eligible employee's military unit commander to obtain or verify documentation concerning military duty.

1025.7 COMPENSATION

An eligible employee may receive compensation while on a temporary military leave of absence consistent with the compensation provisions in the Military and Veteran's Code, applicable memorandum of understanding and pertinent City Council Resolutions.

(a) **Temporary Military Leave of Absence for 30 or Less Calendar Days**: The City will pay salary and benefits to an eligible employee for the first 30 calendar days for any such absence: pay for those purposes may not exceed 30 calendar days in any one fiscal year (California Military and Veterans Code § 395.01(a)).

(b) **Temporary Military Leave of Absence Exceeding 30 Calendar Days**:

1. The City will not pay salary or compensation to an eligible employee on a temporary leave of absence for any period of time during such absence which exceeds 30 calendar days during any one fiscal year unless specifically provided for by a memorandum of understanding or City Council Resolution (California Military and Veterans Code § 395.01(a,c)).

2. An eligible employee is not entitled to salary or compensation beyond an aggregate of 30 calendar days during any one fiscal year while on a temporary military leave of absence.

3. An eligible employee may elect to use accrued vacation and/or compensatory time in lieu of unpaid military leave. Once on a leave without pay status, the employee will not be able to use vacation and/or compensatory time until s/he returns to work.

(c) **Inactive Duty Training**:

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1. The City will not compensate an eligible employee for a temporary military leave of absence to perform inactive duty training commonly referred to as a drill or weekend duty. (California Military and Veterans Code § 395.01(b)).
2. An eligible employee may request to use accrued vacation leave, compensatory time, leave without pay or arrange a shift trade.

(d) **City Council Resolution**:

1. The City Council adopted Resolution No. 01-181 in support of extended compensation for eligible employees who are involuntarily called to active military duty for a period of up to two years for each activation. In such instances the City will pay the difference in salary between the employee's military pay and City pay.
2. Eligible employees will be required to produce legitimate documentation of their military pay in order to be eligible for extended compensation.
3. Seniority and PERS credit shall continue as though still actively at work, although the reservist would not continue to accrue vacation during active duty, but would resume upon return from active duty.
4. The City will continue to pay health, vision, dental plan premiums and life and disability insurance for the reservists and his/her family for the duration of the activation.
5. In the event the City Council modifies, eliminates, or changes in anyway Resolution No. 01-181, the resolution as amended shall supersede any conflicting provisions of this policy.

1025.8 REEMPLOYMENT RIGHTS

(a) Any employee whose absence from a position of public employment is necessitated by reason of service in the uniformed services shall be entitled to reemployment rights and benefits if:

1. The employee (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to the City;
2. The cumulative length of the absence and of all previous absences from a position of employment with the City by reason of service in the uniformed services does not exceed five years; and
3. The employee reports to, or submits an application for reemployment to the City in accordance with the provisions of Title 38 USc § 4312(e).

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(b) Upon completion of a period of service in the uniformed services, an employee's return to work will be determined by the length of the period of service as follows: (Title 38 USC § 4312(e)).

1. For periods of service of 1 to 30 days and for fitness exams: the employee must return to work on the first full scheduled day of work after a reasonable period for safe transportation home and an eight hour rest period.
2. For periods of service of 31 to 180 days: the employee must submit an application for reemployment no later than 14 days after completion of such service.
3. For periods of service of 181 or more days: the employee must submit an application for reemployment no later than 90 days after completion of such service.
4. The deadline for reemployment may be extended for up to 2 years for employees who are convalescing due to a disability incurred or aggravated during military service.

(c) Upon request by the City, an employee on a military leave of absence for a period of 31 days or more must provide documentation showing that: (Title 38 USC § 4312(f)).

1. The application for reemployment is timely;
2. The five-year service limitation has not been exceeded; and
3. The separation from service was other than disqualifying pursuant to Title 38 USC § 4304.

(d) If an employee does not provide satisfactory documentation as requested by the City because it is not readily available or does not yet exist, the City will reemploy the employee contingent on the subsequent production of satisfactory documentation. If, after reemployment, documentation becomes available that shows one or more of the reemployment requirements were not met, the City may terminate the employee subject to the appeal rights provided in applicable MOU or City Personnel Rules (Title 38 USC § 4312(f)(3)(A)).

(e) If an employee has been absent for military service for more than 90 days, the City may require the employee to provide the requested documentation before beginning to treat the person as not having incurred a break in service for pension purposes. (Title 38 USC § 4312(f)(3)(B)).

1025.9 DISQUALIFYING SERVICE

The City has the right to refuse reemployment or to terminate an employee for the following circumstances (Title 38 USC § 4304):

(a) Separation from the service with a dishonorable or bad conduct discharge.

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(b) Separation from the service under other than honorable conditions.

(c) Dismissal of a commissioned officer in certain situations involving a court martial or by order of the President in time of war (Title 10 USC § 1161(a)).

(d) Any commissioned officer who is dropped from the rolls from any of the armed forces when s/he has been absent without authority for more than three months or, who has been sentenced to confinement adjudged by a court martial or, who is imprisoned by a civilian court when his/her sentence has become final. (Title 10 USC § 1161(b)).

1025.10 REEMPLOYMENT POSITIONS

An eligible employee who is entitled to reemployment under the provisions of Title 38 USC § 4312, shall be promptly reemployed in accordance with the following:

(a) **For periods of service less than 91 days**:

1. In the position of employment in which the person would have been employed (to include an uncompleted probationary period) if the continuous employment of such person with the employer would not have been interrupted by such service, the duties of which the person is qualified to perform; or

2. In the position of employment in which the person was employed (to include an uncompleted probationary period) on the date of the commencement of the service in the uniformed services, only if the person is not qualified to perform the duties of the position referred to after reasonable efforts by the employer to qualify the person.

(b) **For periods of service more than 90 days**:

1. In the position of employment in which the person would have been employed (to include an uncompleted probationary period) if the continuous employment of such person with the employer had not been interrupted by such service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform; or

2. In the position of employment in which the person was employed (to include an uncompleted probationary period) on the date of the commencement of service in the uniformed services, or a position of like seniority, status and pay, the duties of which the person is qualified to perform, only if the person is not qualified to perform the duties of a position referred to after reasonable efforts by the employer to qualify the person.

(c) An eligible employee who takes a temporary military leave of absence shall receive the same vacation, sick leave, and holiday privileges and the same rights and privileges to promotion, continuance in office, employment, reappointment to office, or reemployment that the employee would have enjoyed had s/he not been there for; excepting that an uncompleted probationary period, if any, must be completed

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upon reinstatement as provided by law or rule of the agency. (California Military and Veterans Code § 395(d)).

(d) An employer is not required to reemploy a person if the employer's circumstances have so changed as to make such reemployment impossible or unreasonable. (Title 38 USC § 4312(d)(2)(A)).

1025.11 BENEFITS

(a) Service credit will continue to accrue for an eligible employee during his/her military leave of absence for the purposes of retirement and employee recognition awards.

(b) An eligible employee is entitled to time-in-step increases due during the employee's military leave of absence.

(c) Unpaid military leave status will not affect service credit for the purpose of calculating vacation accrual rate (California Military and Veterans Code § 395(d)).

(d) Health Plan Coverage:

1. An eligible employee may elect to continue group health plan coverage in accordance with his/her applicable memorandum of understanding for the lesser of the 24-month period beginning on the date on which the person's absence begins or the day after the date on which the person fails to apply for or return to a position of employment. (Title 38 USC § 4317).

2. An eligible employee who elects to continue health plan coverage may be required to pay not more than 102% of the full premium under the plan associated with such coverage for the employer's other employees, except for a person whose service is less than 31 days. Such person may not be required to pay more than the employee share for such coverage, if any.

3. In the event an employee's monthly health benefits plan payment is more than 30 days late, the City may elect to terminate coverage.

4. Health plan coverage may continue for a period of time in excess of that detailed in section d1 above contingent upon terms negotiated in an applicable memorandum of understanding or adopted in a Resolution by the City Council.

(e) Pension and Retirement Plans:

1. An employee returning from a military leave of absence will be treated as not having incurred a break in service. The City and the employee shall maintain their respective contributions to PERS or any other plan, if applicable.

2. Military service will be considered service with the City for vesting and benefit accrual purposes.

3. The City will fund any resulting obligation(s).

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4. The employee is entitled to any accrued benefits from employee contributions only to the extent that the employee makes the necessary employee contributions.
5. Upon returning from military leave, the employee has a period equal to 3 times the length of service (not to exceed 5 years) within which to make the required contributions to PERS. (Title 38 USC § 4318(b)(2)).

1025.12 LONG TERM MILITARY DEPLOYMENT AND REINTEGRATION

The Department fully appreciates the sacrifice of our employees who are veterans or currently serving in the military. The Department is committed to supporting our military personnel while serving stateside or deployed overseas during peacetime or times of war. The Department recognizes that long term military deployment may require addition supports and provides them as follows.

1025.12.1 MILITARY SUPPORT PROGRAM

The Deparment provides a Military Support Program (MSP) for employees with long detm military deployments to provide information, peer support, resources, and other types of assistance. The MSP will provide assistance to minimize personal and work related challenges associated with military service, including, but not limited to, the following: deployment preparation, deployment, reintegration, pay and benefits.

1025.12.2 DEPARTMENT AND MUNICIPAL POINTS OF CONTACT

a. Departmental employees who are serving , or will serve, in long term military deployments have two primary administrative contacts. First, the Department contact is the Personell and Training Administrator. Second, the municipal contact is the Director of Human Resources for the City of Hayward.

b. Additionally, all divisions of the Department, particularly suypervisors, are encouraged to maintain contact with employees within who are currently serving in the military. This interaction will strengthen the Department’s commitment and assist with identifying any support need related to their military service, administrative processes, pre-deployment, deployment, reintegration, or referral to the Employee Assistance Program (EAP).

1025.12.3 PRE-DEPLOYMENT SUPPORT

Deployment is a possibility for all employees who are currently serving in the military. Preparing for deployment can be a stressful time for service members and their families. The Department understands the activation process and the impact it has on employees, their families, and the Department. Pre-deployment support should begin immediately upon a supervisor becoming aware of an employee’s current military service. Preparation for deployment begins with building trust and an understanding of the personal and professional challenges our employees in military service face. Commanders shall ensure pertinent information is provided to the employee prior to deployment. Information shall include the process regarding pay and benefits, family support, and contact information for maintaining a connection with the Department during deployment.

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The commander shall ensure deploying employees are aware of the Department's Military Support Program, and provide the employee with contact information including the Department's Personnel and Training Administrator, and the City of hHayward's Director of Human Resources.

The Personell and Training Department in collaboration with the City of Hayward Department of Human Resources may assist in providing the following pre-deployment information:

(a) Benefits.

(b) Compensation.

(c) Personal and medical leave accrual, use-or-lose policies.

(d) Service credit.

(e) Disability - Injuries or Wounds.

(f) Medical Veterans Affairs appointments.

(g) Family support through EAP.

(h) Required documents.

1025.12.4 SUPPORT DURING DEPLOYMENT

The Department will continue to treat deployed officers as an important part of the Hayward Police Department family. Supervisors are encouraged to maintain contact with the deployed employee and their family throughout their deployment. Supervisors should also serve as a point of contact for the employee and their family. Once an employee has been deployed, many new challenges may arise. Support should be provided on an on-going basis during their deployment to maintain the connection between the employee and the Department. This includes:

(a) Keeping a strong line of communication while the employee is away. This communication should include updates regarding pertinent policy changes, promotions and the promotional process.

(b) Providing family support and keeping the family connected to available Department resources for assistance with childcare, pet care, and recreational functions, if available.

(c) Providing information regarding stress and combat fatigue.

(d) Promoting departmental involvement, by encouraging support from peers, colleagues and management, through postcards, greeting cards, and group care packages.

1025.12.5 POST-DEPLOYMENT PROCESS

Prior to the employee's scheduled return to duty, supervisors should contact the employee to discuss the post-deployment process. This requires the supervisor to coordinate personnel actions, as needed, to ensure the employee's smooth reintegration back into service with the Department and minimize possible disruptions in employee pay and benefits.

This process should be modified to the employee and take into consideration developmental, personal or medical needs, reasonable accommodation, or any other issues specific to the employee or division.

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The returning employee should be encouraged to contact the Personnel and Training Administrator. The primary role of the Personnel and Traing Administrator in this regard is to provide support and assistance regardless of rank or job classification, to facilitate the employee's smooth transition back to duty.

The supervisor shall ensure the following items are discussed with the returning employee:

(a) Readjustment timing, including departmental familiarity and readapting to the HPD environment and policies.

(b) Transitional issues, including readjusting to civilian rules of engagement, administrative matters, family concerns, or financial hardships.

(c) Overall mental and emotional wellness.

(d) Changes within the Department.

(e) Refresher training, weapons qualification, officer safety, vehicle operations certification, and/or any other refresher opportujities deemed appropriate.

(f) Work assignment, shift, regular days off, vacation sign-up, and requests for time off.

(g) Job and promotional examination opportunities.

(h) Safety equipment needs, assistance in reissuing, exchanging, or providing new equipment as needed.

(i) Other departmental or Peace Officer Standards and Training-mandated training.

(j) Payroll, timekeeping, health insurance, and employee benefits.

(k) Military separation paperwork.

(l) Contact information for the Personnel and Training Administrator and the Director of Human Resources for the City of Hayward.

1025.12.6 STORAGE OF DEPARTMENT-ISSUED EQUIPMENT DURING LONG TERM MILITARY DEPLOYMENT

In the event an employee is ordered to long term military deployment, the Personnel and Training Administrator shall ensure all of the employee's Department-issued equipment is accounted for and stored in the employees assigned locker.

1025.13 REVISIONS

Enacted: December 17, 2007

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Occupational Disease and Work-Related Injury Reporting

1026.1 PURPOSE AND SCOPE

The purpose of this policy is to provide for the reporting of on-duty occupational illness, injuries or deaths to the Hayward Police Department and the City of Hayward Human Resources Department. This policy will ensure proper medical attention is received, and documentation of the incident is obtained in a timely manner.

1026.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.2.4

1026.1.2 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 Hayward 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 illnesses or injuries requiring medical care must be reported to the City of Hayward Human Resources Department and a claim form shall be provided to the injured employee within 24 hours from the time the injury was discovered, excluding weekends and holidays.

1026.2.2 ACCIDENT DEFINED

An 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 and/or treated by a doctor.

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Occupational Disease and Work-Related Injury Reporting

Any employee sustaining a work-related injury or illness that requires relief from duty will automatically be temporarily assigned to the Personnel and Training Manager until they are returned to duty. During this time, the employee(s) shall maintain regular contact with the Personnel and Training Manager. Regular contact will consist of once per week, unless other arrangements are approved or requested by the Division Commander. Employees will also, without delay, notify the Personnel and Training Manager of any change in their condition and of any updates relative to their duration of absence. While the employee is off, their payroll hours will revert to Monday through Friday, 8:00 a.m. to 4:00 p.m. Each employee will also be expected to remain available to the Department by phone during those hours. 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.

If an employee has been relieved from duty for six months or longer, that employee must report to the Personnel and Training Office to ensure all policy and/or training mandates and weapons qualifications have been met prior to returning to full duty.

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 in this policy. 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 Commander, 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 a Claim for Workers' Compensation Form (DWC-1) within 24 hours, regardless of the nature of illness or injury.

Copies of any reports documenting the accident or injury should be forwarded to the Division Commander as soon as they are completed.

1026.2.5 DIVISION COMMANDER RESPONSIBILITY

The Division Commander receiving a report of a work-related accident or injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Chief of Police.

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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 the Personnel File Policy).

1026.3 INJURY NOT REQUIRING MEDICAL ATTENTION

Those injuries and illnesses not requiring medical attention shall be recorded on a Supervisor's Report of Injury form. This form shall be completed and signed by a supervisor.

This form shall be signed by the affected employee, indicating that he/she desired no medical attention at the time of the report. By signing this form, the employee will not preclude his/her ability to seek medical attention later.

1026.4 SETTLEMENT OF INJURY CLAIMS

Occasionally, an employee's work-related injury results from the negligent or wrongful acts of another, for which the employee, the City, and/or other insurers are entitled to recover civilly. To ensure that the City's interests are protected and that the employee has the benefit of the City's experience in these matters, the following procedure is to be followed:

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.

1026.4.2 NO SETTLEMENT WITHOUT PRIOR APPROVAL
No less than 10 days prior to accepting and finalizing the settlement of any third party claim arising out of or related to an on duty injury, the employee shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the employee accept a settlement without first providing such written notice to the Chief of Police. The purpose of such notice to permit the City to determine whether or not the offered settlement will affect any claim the City may have regarding payment for damage(s) to equipment or reimbursement for wages against the person who caused the accident or injury and to protect the City's right of subrogation, while ensuring that the employee's rights to receive compensation for injuries are not affected.

1026.5 PROBATIONARY EMPLOYEES

Probationary employees who are required to be removed from duty or who are assigned to a temporary modified-duty assignment as a result of a work-related injury or illness shall have their probation extended by a period of time equal to the employee's removal or assignment to modified duty.

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1026.6 EXCLUDED ACTIVITIES

Injuries incurred during any organized competitive sports or leisure activity are outside the scope of workers' compensation coverage, including but not limited to the following:Basketball, Soccer, Football, Hockey, Ice Skating, Snow Activities, Golf, Bowling, Surfing, Fishing, Motocross/ATV/ Motor Vehicle Sports, Dog Walking, and Mountain Biking.

1026.6.1 SAFETY PRECAUTIONS

All running, jogging, or walking should occur on a well-lit paved pathway, sidewalk, athletic field or treadmill.

All weightlifting and gym exercise should occur in a home or commercial gym (including HPD station gym and HPD airport gym).

1026.7 REVISIONS

Enacted: December 17, 2007

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Revised: April 20, 2010

Revised: April 25, 2012

Revised:August 3, 2015

Revised: May 23, 2016

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Personal Appearance Standards

1027.1 PURPOSE AND SCOPE

In order to project uniformity and neutrality toward the public and other members of the Department, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this Department and for their assignment.

1027.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.3.4

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. The Chief of Police may authorize deviations from these standards based on medical or religious exceptions or other circumstances that qualify as a legitimate exception. Exceptions to this standard will be considered on a case by case basis by the Chief of Police. Requests shall be made on a Department memo addressed to the Chief of Police through the chain of command.

1027.2.1 HAIR

For all employees, hairstyles shall be neat in appearance. For all members, hair must have a natural color tone. For all uniformed employees, hair must not extend below the top edge of the uniform collar while assuming a normal stance.

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 is authorized. It may not extend beyond one-half inch from the face. Facial hair must have a natural color and be neatly trimmed with no exotic patterns or designs. The wearing of facial hair shall remain at the discretion of the Chief of Police.

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 AND ACCESSORIES

No jewelry or personal ornaments shall be worn by officers on any part of the uniform or equipment, except those authorized within this manual. Jewelry, if worn around the neck, shall not be visible

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above the shirt collar. Only one ring may be worn on each hand of an employee while on-duty. Female employees may have single pierced ears with matching, post-style earrings worn in the lobe of each ear.

1027.3 TATTOOS

1027.3.1 DEFINITIONS

For purposes of this section, a tattoo is defined as a picture, design, or marking made on the skin or other areas of the body by staining it with an indelible dye, or by any other method, including pictures, designs, or markings only detectable or visible under certain conditions (such as ultraviolet or invisible ink tattoos). A brand is defined as 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 because of using means other than burning to permanently scar or mark the skin.

1027.3.2 TATTOO CRITERIA

While on-duty or representing the Department in any official capacity all visible tattoos shall meet the following criteria:

TATTOO LOCATIONS

Tattoos/brands/body markings in the following areas shall not be authorized: tattoos/brands/body markings on the head, neck (visible above the open collar of a uniform), face (excluding cosmetic), tongue, lips (excluding cosmetic), scalp, or hands (except one ring tattoo on one finger on one hand).

Tattoos/brands/body markings are authorized on any other area not visible while wearing a uniform. Ring tattoos are limited to a single band of no more than 1/2 of an inch in width, below the knuckle and above the finger joint closest to the palm on the ring finger. Employees with tattoos on the hands prior to the implementation of this policy will be exempt; however, hand tattoos other than those authorized above will not be permitted after implementation of this policy.

COSMETIC TATTOOING

Tattooing for cosmetic purposes is authorized when directed by licensed, qualified medical personnel to correct a medical condition, illness, or injury. When not medically directed, cosmetic tattooing is permitted if done to apply permanent facial makeup (e.g., eyebrows, eye liner, etc.). The cosmetic tattooing must have a natural appearance and be reasonable, not eccentric.

UNAUTHORIZED TATTOOS

Unauthorized tattoos/brands/body markings anywhere on the body shall not be displayed on or off duty. Unauthorized tattoos/brands/body markings include, but are not limited to, those associated with gangs, extremist, and/or supremacist organizations; those with sexual or profane words/phrases; those representing indecency, lawlessness, violence, or sexually explicit material; those that advocate discrimination based upon sex, gender,

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sexual orientation, race, ethnicity, or religious persuasion;and those that are prejudicial to good order and discipline, are inconsistent with the mission of the department, or bring discredit upon law enforcement.

1027.3.3 TATTOO REVIEW AND APPROVAL

Visible display of tattoos/brands/body markings are permitted only after an employee has completed a written Request for Approval of Visible Tattoos/Markings and accompanying photographs have been approved by the employee's manager. The approved form and photographs shall be placed in the employees' file. Appeals for unapproved visible tattoos/brands/body markings go through the chain of command. Final determination of appeals will be made by the employee's division commander.

Employees having unapproved or unauthorized tattoos/brands/body markings will be required to wear a dark blue/black/skin colored athletic band, or authorized long sleeve shirts or pants to cover the tattoo/brand/body marking.

1027.3.4 MANDATORY COVERING OF TATTOOS

All tattoos/brands/body markings, except approved ring tattoos, shall be covered at all times when a member is required to appear at any of the following:

· All judicial or administrative court hearings (unless called in while already on duty and coverings are not immediately available)

· All official city or departmental ceremonies and public safety funerals.

· All City Council sessions or formal meetings with city officials.

· All VIP or dignitary protection or escort details.

1027.3.5 DEVIATIONS FROM TATTOO POLICY

The Chief of Police or authorized designee may authorize deviations from this policy on a case-by-case basis.

1027.4 BODY PIERCING OR ALTERATION

Except for a single pierced earring worn in the lobe of each ear, body piercing or alteration to any area of the body visible in any authorized uniform or attire while any employee is on-duty or representing the Department in any official capacity that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

(a) Tongue splitting or piercing.

(b) The complete or transdermal implantation of any material other than hair replacement.

(c) Abnormal shaping of the ears, eyes, nose or teeth

(d) Branding or scarification.

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1027.5 EXEMPTIONS

Members who seek cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code § 12926). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief of Police should be advised any time a request for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a safety or security risk.

1027.6 REVISIONS

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Police Cadets

1028.1 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.

1028.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 16.4.1, 16.4.3

1028.2 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.

1028.3 PROGRAM COORDINATOR

The Training Bureau Manager will serve as the Program Coordinator. This supervisor will be responsible for tracking the educational and job performance of cadets as well as making their individual assignments throughout the Department. He/she will also monitor the training provided for all cadets and review all decisions affecting job assignments,status for compensation, school attendance and performance evaluations.

1028.3.1 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.

1028.4 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.

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1028.5 CADET UNIFORMS

Each cadet will be provided two uniforms meeting the specifications described in the Uniform Manual for non-sworn employees.

1028.6 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.

1028.7 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.

1028.8 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.

1028.9 REVISIONS

Enacted: July 9, 2013

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Nepotism and Conflicting Relationships

1029.1 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.

1029.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

1029.1.2 DEFINITIONS

Business Relationship - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture or other transaction, where the Department 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.

1029.2 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)):

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Nepotism and Conflicting Relationships

(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 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. Any such transfer or reassignment shall be deemed non-punitive for purposes of the Public Safety Officers' Bill of Rights.

(b) It is recognized that employees may become involved in personal relationships. If, in the opinion of the employees Division Commander, such a relationship creates a conflict of interest or has an adverse impact on supervision, safety, security, morale or productivity the Department reserves the right to transfer or reassign any employee to another position within the same classification to eliminate or minimize the adverse impact.

(c) 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.

(d) FTO's shall not be assigned to train relatives, and whenever possible, other trainers will not be assigned to train relatives. FTO's and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.

(e) To avoid actual or perceived conflicts of interest, and to avoid conduct, which might bring disrepute upon the Department, employees of this Department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.

(f) 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.

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1029.2.1 EMPLOYEE RESPONSIBILITY

If an employee is currently in a personal or business relationship or other circumstance, or prior to entering into such a relationship or circumstance, which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her immediate uninvolved supervisor, or if that is not possible then the employees next highest uninvolved level of supervisor of such a relationship.

Whenever any employee is placed in circumstances 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.

1029.2.2 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.

1029.3 REVISIONS

Enacted: December 17, 2007

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Revised: March 16, 2011

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Revised: May 23, 2016

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Police Education Incentive Program

1030.1 PURPOSE AND SCOPE

The purpose of this procedure is to establish guidelines for participation in the Police Education Incentive Program.

1030.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.1.1, 22.2.2

1030.2 BACKGROUND

This program is designed so that officers can prepare themselves to meet the challenges presently confronting law enforcement agencies. A high degree of excellence is required by all officers in view of the social, legislative, technical, and judicial changes that reflect the need for such a program. The experienced officer will be better qualified to meet these challenges if he or she can improve their skills by participating in academic training and specialized training programs. Additional compensation will be provided to those officers who qualify.

1030.3 ELIGIBILITY

Those eligible must be within the following category:

Persons holding the following ranks will be eligible to participate: Police Officer, Detective, Inspector, Sergeant, Lieutenant and Captain.

Eligibility shall be established as follows:

(a) In regards to the Education Incentive Pay structure being implemented July 1, 2014:

1. Officers qualifying for "permanent" compensation under the provisions of this program shall be entitled to receive such compensation effective with the first pay period following completion of the requirements therefore.
2. After the initial implementation of the new Education Incentive Pay structure on July 1, 2014, it will be the sole responsibility of the employee to seek out, apply for and/or submit the documentation needed to modify their level of permanent Education Incentive Pay.

(b) In regards to Continuing Education Incentive Pay for courses approved and started after July 1, 2014:

1. Eligible employees who have completed the necessary program requirements during the preceding twelve months shall be eligible for additional compensation of 2.5% above the salary step currently held, as stated in this policy. The 2.5 percent Continuing Education Incentive Pay will be paid for the following twelve months (26 biweekly pay periods). Thereafter, recertification, as required shall take place during the following twelve month period if the employee wishes to continue receiving the additional compensation.

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1030.3.1 PROGRAM REVIEW COMMITTEE

A Program Review Committee consisting of the City Manager, Chief of Police, Human Resources Director, or their designated alternates and two representatives of the Hayward Police Officers' Association shall be formed to assist in the administration of the program. The Personnel and Training Manager shall serve as a non-voting advisory member of the committee. The committee shall resolve questions of eligibility hear appeals from candidates with respect to acceptability of course work or training programs and decide any other questions which may arise in the administration of the program, or the interpretation of this departmental order. A quorum of three voting members shall be required, and decisions of the committee shall be by majority vote of those in attendance. Decisions made by this committee shall be final.

1030.4 CONTINUING EDUCATION REQUIREMENTS

Officers must complete a minimum of 50 hours of approved study and training during each qualification period as defined above. Approved study and training includes the following:

(a) Officers may take courses in accredited public or private schools, colleges or universities if the courses are identified as courses that would improve their efficiency, knowledge or competency in the performance of their duties, or are acceptable credits toward a college degree.

(b) Enrollment in correspondence courses and educational television/internet courses may be approved providing such courses are acceptable for credit toward a college degree by a college or university with maximum accreditation from the Western Association of Schools and Colleges and/or the Accrediting Commission of the Distance Education and Training Council (DETC). Such courses must also be consistent with the general aims and requirements of the program. All other accreditations will be evaluated by the Personnel and Training Manager.

(c) Three semesters, four quarter or more units of approved public school, college or university work shall be equivalent to 50 hours of classroom study. Credit for special classroom study or training provided by another law enforcement agency may be combined with college enrollment to obtain the required 50 hours only upon approval by the Personnel and Training Manager or his or her designee.

(d) Officers who wish to enroll in an outside school, college or university must submit, in advance of enrollment, a report to the Personnel and Training Manager or his or her designee the name of the school, the subject(s), the number of credits or units, for approval by the Chief of Police or his/her designee. Officers who wish to appeal the decision with respect to the suitability of intended training or course work, if denied, may do so by fully stating their position in writing to the Program Review Committee, whose decision shall be final.

(e) Officers attending outside schools, colleges or universities will be required to complete the selected course of study with a minimum grade of "C" or its equivalent. Transcripts or other official notification from the institution shall be furnished to the Personnel and Training Manager. For non-graded courses or training programs, a certificate of completion together with evidence of satisfactory attendance shall be required.

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1030.5 ADDITIONAL COMPENSATION

Additional compensation guidelines are as follows:

(a) Officers completing the approved study or training requirements during the appropriate qualification period shall receive additional compensation of 2 1/2% above the salary step currently held. Said compensation shall be paid for a twelve month period (26 bi-weekly pay periods).

(b) The Professional Certification Program established by the California Commission on Peace Officer Standards and Training (POST) shall be made a part of this policy and all future revisions to the Professional Certificate Program shall automatically be incorporated herein.

(c) HPOA Elements:

"An Officer who obtains a POST Intermediate Certificate shall be entitled to additional compensation of two and one-half percent (2 ½%) above the salary step currently held. It shall be considered "permanent" and not subject to re- qualification requirements. The additional compensation shall be retroactive to the date the Officer is eligible for and submits their application for the POST Intermediate Certificate and their Incentive Pay Request to the Personnel and Training Bureau.

An Officer who obtains a POST Intermediate Certificate and who possesses a four (4)-year (BA or BS) degree or higher shall be entitled to compensation of five percent (5%) above the basic salary step currently held. It shall be considered "permanent" and not subject to re-qualification requirements. The additional compensation shall be retroactive to the date the Officer is eligible for and submits their application for the POST Intermediate Certificate and their Incentive Pay Request to the Personnel and Training Bureau.

Officers who obtain a POST Advanced Certificate shall be entitled to compensation of seven and one-half percent (7 ½%) above the basic salary step currently held. It shall be considered "permanent" and not subject to re- qualification requirements. The additional compensation shall be retroactive to the date the Officer is eligible for and submits their application for the POST Advanced Certificate and their Incentive Pay Request to the Personnel and Training Bureau.

Officers who obtain an Advanced Certificate and who possess a Master's degree shall be entitled to additional "permanent" compensation of ten percent (10%) above the salary step currently held.

In no case will an Officer receive more than a total of twelve and one-half (12 1/2%) above the basic salary step currently held by reason of the Officer's participation in the program, and in no case will an Officer receive more than a total of twenty percent (20%) above the basic salary step currently held by reason of the Officer's combined participation in the Police Education Incentive Program and continuous service as an Officer as outlined in Section 15.02, Continuous Service Pay.

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Employees receiving "permanent" additional compensation based on the Education Incentive structure in place prior to July 1, 2018 that is higher than the additional compensation they would be eligible for under the structure provided in this Section and Section 15.02, Continuous Service Pay, combined, effective July 1, 2018, will have their additional compensation frozen at its current level until such time that they would be eligible for a higher benefit under this Section and Section 15.02, combined."

A summary chart of requirements and pay percentages for the POST/Educational Incentive Program can be found in the HPOA agreement.

1030.6 GENERAL CONSIDERATIONS

General considerations are as follows:

(a) Each course of study or training must be approved in advance by the Personnel and Training Manager.

(b) All time spent in qualifying for the program shall be off-duty time and shall entail no cost to the City, nor shall compensation be received from any other source.

(c) No credit will be given for mandatory training programs.

(d) Retro pay will not be available outside of these parameters.

(e) It has always been and shall remain the sole responsibility of the employee to seek out, apply for and/or submit the documentation needed to start and/or continue receiving yearly Continuing Education Incentive Pay.

1030.7 REVISIONS

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Department Badges

1031.1 PURPOSE AND SCOPE

The Hayward Police Department badge and uniform patch as well as the likeness of these items and the name of the Hayward Police Department are property of the Department and their use shall be restricted as set forth in this policy.

1031.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 17.5.2, 22.2.7, 41.3.4

1031.2 POLICY

The uniform badge shall be issued to Department members as a symbol of authority and the use and display of Departmental badges shall be in strict compliance with this policy. Only authorized badges issued by this Department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

1031.2.1 FLAT BADGE

Sworn officers, with the written approval of the Chief of Police, may purchase or receive as a gift, a flat badge, commemorative anniversary badge or duplicate departmental issued badge after he/she has successfully completed their probationary period. The use of any badge is subject to all the same provisions of Departmental policy as the uniform badge.

(a) The Office of Personnel and Training shall maintain a file documenting badge purchase requests, the approval and/or denial of such requests, and a list of officers who own purchased or gifted badges. The information maintained shall be limited to the identity of the owner, the style/type of badge, and associated badge number.

(b) An officer may sell, exchange, or transfer a badge he/she purchased to another officer within the Hayward with the written approval of the Chief of Police. If approved by the Chief of Police, the transfer of ownership shall be reported to the Office of Personnel and Training by the new owner as soon as practicable.

(c) Should any badge become lost, damaged, or otherwise removed from the officer's control, he/she shall make the proper notifications as outlined in the Department Owned and Personal Property policy. The badge shall be entered into the California Law Enforcement Teletype System (C.L.E.T.S.) as lost or stolen property as appropriate and a C.L.E.T.S. notification shall be sent to all California law enforcement agencies.

(d) An honorably retired officer may keep his/her purchased or gifted badge upon retirement.

(e) The purchase, carrying or display of a flat badge is not authorized for professional staff personnel.

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1031.2.2 NON-SWORN PERSONNEL

Badges and departmental identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Crime Scene Technician, Community Service Officer).

(a) Non-sworn personnel shall not display any department badge except as a part of his/her uniform and while on duty, or otherwise acting in an official and authorized capacity.

(b) Non-sworn personnel shall not display any department badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

1031.2.3 RETIREE UNIFORM BADGE

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 Hayward Police Department. (This identification is separate and distinct from the identification authorized by Penal Code § 12027 and referenced in the Retiree Concealed Firearms policy).

Upon honorable retirement employees may purchase his/her assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

A badge provided as a gift to an honorably retired peace officer from the Hayward Police Officer's Association (HPOA) that is not affixed to a plaque or other memento will have the word "Retired" clearly visible on its face. (Penal Code § 538d)

1031.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and non-sworn uniformed employees for official use only. The Department badge, shoulder patch or the likeness thereof, or the Department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, uniform patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief of Police.

Employees shall not loan his/her department badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

1031.4 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the Department badge shall not be used without the expressed authorization of the Chief of Police and shall be subject to the following:

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Department Badges

(a) The employee associations may use the likeness of the Department badge for merchandise and official association business provided they are used in a clear representation of the association and not the Hayward Police Department. The following modifications shall be included:

1. The text on the upper and lower ribbons is replaced with the name of the employee association.
2. The badge number portion displays the acronym of the employee association.

(b) The likeness of the Department badge for endorsement of political candidates shall not be used without the expressed approval of the Chief of Police.

1031.5 REVISIONS

Enacted: February 18, 2009

Revised: March 16, 2011

Revised: April 25, 2012

Revised: August 3, 2015

Revised: May 23, 2016

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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, and current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

1032.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 22.3.2

1032.2 POLICY

Subject to operational considerations, the Hayward Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

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 Hayward Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

1032.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses. Employees seeking a temporary modified-duty assignment should provide a signed City Medical Referral Form (MRF) from their health care provider describing the following:

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- An assessment of the nature and probable duration of the illness or injury.
- The prognosis for recovery.
- The nature and scope of limitations and/or work restrictions.
- A statement regarding any required workplace accommodations, mobility aids or medical devices.
- A statement that the employee can safely perform the duties of the temporary modified-duty assignment.
- The expected duration.

The Personnel and Training Manager will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Human Resources Department or the City Attorney as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Personnel and Training Manager, with notice to the Chief of Police.

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 operations and the employee's medical appointments, as mutually agreed upon with the Personnel and Training Manager. Modified-duty assignments are intended to provide an employee with the ability to continue working within the limits of his/her restrictions and limitations on a temporary basis while providing the Department with a productive employee during the interim period. Modified-duty assignments shall last no longer than 90 days and then be re-evaluated for the continuation of the modified-duty assignment. Modified duty assignments shall not exceed one year from the original date of the modified duty assignment. The Department will in good faith engage in an interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability.

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.

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(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.

1032.5.2 SUPERVISOR RESPONSIBILITIES

The Personnel and Training Manager shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of the Personnel and Training Manager shall include, but not be limited to:

(a) Periodically apprising the assigned Personnel and Training Unit of the status and performance of employees assigned to temporary modified duty.

(b) Notifying the Personnel and Training Unit 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 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.

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.

1032.10 REVISIONS

Enacted: February 18, 2009

Revised: July 9, 2009

Revised: April 22, 2014

Revised: May 23, 2016

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Revised: June 7, 2020

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Employee Speech, Expression and Social Networking

1033.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

1033.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

1033.1.2 APPLICABILITY

This policy applies to all forms of communication including, but not limited to, film, video, print media, public or private speech, use of all Internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file-sharing sites.

1033.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this Department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this Department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Hayward Police Department will carefully balance the individual employee's rights against the Department's needs and interests when exercising a reasonable degree of regulation of its employees' speech and expression.

1033.3 SAFETY

Employees should consider carefully the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of the Hayward Police Department employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably

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be anticipated to compromise the safety of any employee, an employee'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 HPD employee who is working undercover.
- Disclosing the address of an HPD employee.
- Otherwise disclosing where another HPD employee can be located off-duty.

1033.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT

To meet the department's safety, performance and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

(a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Hayward Police Department or its employees.

(b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Hayward Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Hayward Police Department or its employees. Examples may include:

1. Statements that indicate disregard for the law or the state or U.S. Constitution.
2. Expression that demonstrates support for criminal activity.
3. Participating in sexually explicit photographs or videos for compensation or distribution.

(c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.

(d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.

(e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Hayward Police Department.

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(f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Department for financial or personal gain without the express authorization of the Chief of Police or the authorized designee.

(g) Except for promotional/swearing-in/awards, commendations and other community events, posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Hayward Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.

(h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty, except in the following circumstances:

1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).

2. During authorized breaks such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

1033.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may not represent the Hayward Police Department or identify themselves in any way that could be reasonably perceived as representing the Hayward Police Department in order to do any of the following, unless specifically authorized by the Chief of Police (Government Code § 3206; Government Code § 3302):

(a) Endorse, support, oppose or contradict any political campaign or initiative.

(b) Endorse, support, oppose or contradict any social issue, cause or religion.

(c) Endorse, support or oppose any product, service, company or other commercial entity.

(d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or officer associations), is affiliated with this department, the employee shall give a specific disclaiming

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statement that any such speech or expression is not representative of the Hayward Police Department.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, on political subjects and candidates at all times while off-duty.

However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

1033.5 PRIVACY EXPECTATION

Employees forfeit any expectation of privacy with regard to e-mails, texts, or anything published or maintained through file-sharing software or any internet site (e.g., Facebook) 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] shall not require an employee to disclose a personal user name or password for accessing personal social media or to open a personal social website; however, the [Department/Office] may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

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 authorized designee should consider include:

(a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.

(b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.

(c) Whether the speech or conduct would reflect unfavorably upon the Department.

(d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.

(e) Whether similar speech or conduct has been previously authorized.

(f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

1033.7 TRAINING

Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.

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1033.8 REVISIONS

Enacted: August 13, 2010

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Revised: June 3, 2019

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Mentoring Program

1034.1 PURPOSE AND SCOPE

Authorized members of the Hayward Police Department will serve as mentors to new employees with the primary objective of ensuring a successful transition into the work place. The mentoring process will ultimately provide the necessary support and encouragement that will develop the long term career of a new hire within the organization.

As an integral part of new-hire orientation, each newly-hired employee will initially be assigned to the Mentoring Program. An authorized and trained employee will be assigned to the new hire serving as an advisor, supporter, contact person, and resource for information. The Mentoring Program and authorized mentors are not to interfere with or undermine the training and supervision carried out by the Field Training Program or any other non-sworn training program.

1034.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards:

1034.2 DEFINITIONS

Mentor - An experienced employee, who provides guidance and support and watches over and fosters the progress of a less experienced employee.

Protégé - A person who receives help, guidance, and support from someone who has more experience or influence.

Formal Mentoring - A deliberate pairing of a more experienced person with an inexperienced person with the goal of having the lesser experienced person grow and develop specific skills in order to achieve their maximum potential.

Mentor Program Coordinator - The selected or appointed person who is responsible for administration and oversight of the new employee Mentor Program.

1034.3 PROGRAM GOALS

(a) Increase employee retention

(b) Better assimilate new hires

(c) Increase job satisfaction

(d) Development of professional identity

(e) Provide a support system for employees

(f) Facilitate professional development of protégé’

(g) Teach organizational culture, values, mission and standards

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1034.4 MENTOR SELECTION

Once an opening is announced, the process for selecting mentors within the Police Department will begin with a request for transfer to the Mentor Program Coordinator and follow with an oral board panel consisting of the Mentor Program Coordinator and members of the Mentor Committee.

Minimum requirements to be a mentor will be two years of experience with the Hayward Police Department. All candidates must be permanent, non-probationary employees.

After a pool of mentors is established, the list of mentors' names will be forwarded for approval by Command Staff. Input from the interested employee’s supervisor will be sought to aid in the selection process. The Chief of Police and his/her designee will approve final selection of mentors.

1034.5 MENTOR RESPONSIBILITIES

Mentors are the key component to a successful mentoring process. It is important that mentors are fully aware of the importance of their role and are committed to fulfilling their responsibilities.

(a) All mentors will be trained in the skills of mentoring and will be required to attend mentor meetings as scheduled by the Mentor Program Coordinator.

(b) Once a mentor is assigned a newly-hired employee, duties will include:

1. Contacting the new employee to introduce themselves and to explain the mentoring function.
2. Periodically contact the new employee to provide personal guidance and support, and to provide information as needed.

(c) Mentors shall maintain professional relationships with their protégés.

(d) The mentor should provide guidance and support as opposed to making decisions for the protégé.

(e) The Mentor Program and Mentors are not to interfere with or undermine personnel assigned to train or supervise the Protégé.

(f) No sexual/romantic relationship allowed with the protégé.

(g) Mentor must initiate the first contact with the protégé.

(h) If personality conflicts arise, the Mentor will notify the Mentor Coordinator and try and resolve them with the protégé.

(i) Be a confidant for the protégé.

(j) Be a departmental role model. Not everyone can or should be a mentor. It is an honor.

1034.6 MENTORING PROGRAM COORDINATOR

The Mentoring Program Coordinator will be responsible for the administration of the program. The Mentoring Program Coordinator facilitates all elements of the process, and is responsible for the oversight of the selection, assessment, matching, and orientation of mentors and protégés. Other duties will include:

(a) Liaison with the Personnel and Training Unit;

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(b) Recruit, provide for training, and maintain mentor pool;

(c) Assign mentors to newly-hired employees;

(d) Schedule and conduct mentor meetings; and,

(e) Troubleshoot and evaluate.

(f) Oversee and resolve any personality conflicts between mentors and protégé's.

(g) Provide protégé's a 360 degree feedback checklist for program improvement.

(h) Ensure mentors are staying in contact with their assigned protégé's.

1034.7 MENTORING GUIDELINES

(a) Assist in the transition of newly hired employees through the probationary period.

(b) Provide guidance: Define any problem/issue by using common sense and not ignoring policy violations (enforcement rests with the supervisor to whom the protégé is assigned).

(c) Familiarize the new employee with the Department's structure and philosophy.

(d) Be truthful and honest: Explain the positives and challenges for the Department while showing support for the agency.

(e) Mentors and the Mentor Coordinator will be facilitators for protégé support.

(f) The Mentor Program is not a replacement for the FTO Program or any Professional Staff training program. A mentor may communicate with the FTO or Professional Staff trainer to better assist the protégé, but do not involve yourself with, nor pass judgement on FTO or Professional Staff training matters. The Mentor Program is meant to be another departmental tool to assist the new employee in a successful career with the Hayward Police Department.

1034.8 REVISIONS

Enacted: November 3, 2014

Revised: May 23, 2016

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Uniform Policy

1036.1 PURPOSE AND SCOPE

The uniform policy of the Hayward Police Department is established to ensure that uniformed officers will be readily identifiable to the public through the proper use and wearing of department uniforms. Employees should also refer to the following associated Policy Manual sections:

- Department Owned and Personal Property
- Body Armor
- Grooming Standards
- Uniform and Equipment Specifications

The Uniform and Equipment Specifications manual is maintained and periodically updated by the Chief of Police or his/her designee. The manual should be consulted regarding authorized equipment and uniform specifications that is found in the HPD Procedures Manual.

The Hayward Police Department will provide uniforms for all employees required to wear them in the manner, quantity and frequency agreed upon in the respective employee group's collective bargaining agreement.

1036.2 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 17.5.2, 22.2.5, 22.2.7, 41.3.4

1036.3 WEARING AND CONDITION OF EQUIPMENT

Police employees wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose to identify the wearer as a source of assistance in an emergency, crisis or other time of need.

(a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean, and appear professionally pressed.

(b) All peace officers of this department shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.

(c) Personnel shall wear only the uniform specified for their rank and assignment.

(d) The uniform is to be worn in compliance with the specifications set forth in the department's uniform specifications which are maintained separately from this policy in the HPD Procedures Manual.

(e) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.

(f) Civilian attire shall not be worn in combination with any distinguishable part of the uniform.

(g) Uniforms are only to be worn while on duty, while in transit to or from work, for court, or at other official department functions or events.

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(h) If the uniform is worn while in transit, an outer garment shall be worn over the uniform shirt so as not to bring attention to the employee while he/she is off-duty.

(i) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform, including the uniform pants.

(j) Uniform long sleeves shall not be rolled up.

(k) Personnel shall not blouse pant legs of their uniform pants. Uniform pants shall be worn in a normal straight leg configuration.

(l) Mirrored sunglasses are prohibited with any Department uniform.

(m) Visible jewelry, other than those items listed below, shall not be worn with the uniform unless specifically authorized by the Chief of Police or the authorized designee.

1. Wrist watch with a black or neutral wrist band.
2. Wedding ring(s), class ring, or other ring of tasteful design. A maximum of one ring/set may be worn on each hand
3. Medical alert bracelet
4. One set of earrings for female officers. Earrings must only be post style.

1036.3.1 DEPARTMENT ISSUED IDENTIFICATION AND TELEPHONE IDENTIFICATION

The Department issues each employee an official department identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty or when carrying a concealed weapon.

(a) Whenever on duty or acting in an official capacity representing the department, employees shall display their department issued identification or badge in a courteous manner to any person upon request and as soon as practical.

(b) Officers working specialized assignments may be excused from the possession and display requirements when directed by their Division Commander.

(c) When working over the telephone, except in specialized assignments described in (b) above, all personnelshall identify themselves if asked. Employees shall identify themselves in a courteous manner as soon as practical. Example: "Hello, this is Officer Smith of the Hayward Police Department," or " Hello, this is Ms. Jones of the Hayward Police Department."

1036.3.2 COURT AND HEARING ATTIRE

The following provisions shall apply to all employees, regardless of assignment, while representing the Department in a court of law, before any official body, board, hearing, or meeting, or as a member of any board or panel when such attire is considered appropriate.

Sworn personnel are encouraged to wear the regulation Class A or Class B uniform while representing the Department in any official or authorized capacity. The Class C utility uniform is not authorized for court appearances. Sworn personnel who opt to wear professional attire shall adhere to the following guidelines:

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Male Employees. Male employees shall wear a suit with a tie and dress shoes which are conservative in nature and professional.

Female Employees. Female employees shall wear a dress, skirt, or slacks-suit combination with dress shoes which are conservative in nature and professional.

1036.3.3 SPECIALIZED UNIT UNIFORMS

The Chief of Police may authorize special uniforms to be worn by officers in specialized units such Canine, Special Response, Bicycle Patrol, Motor Officers, Community Policing, and other specialized assignments. See the HPD Procedures Manual for Uniform and Equipment a list of approved uniforms for specialized units.

1036.3.4 MOURNING BAND WITH BADGE

Uniformed employees shall wear a black mourning band across the uniform badge In the event of whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

(a) An officer of this department - From the time of death until midnight on the 14th day after the death or until midnight of the day of the funeral service, whichever is later..

(b) An officer from this or an adjacent county - From the time of death until midnight on the day of the funeral.

(c) Funeral attendee - While attending the funeral of an out of region fallen officer.

(d) National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.

(e) As directed by the Chief of Police.

The mourning band shall be worn in the One O'clock- to -Seven O'clock position, as if looking at the face of a clock.

1036.3.5 TRAINING AND CPT ATTIRE

Classroom Attire:

Employees are to dress for a professional training environment. Appropriate classroom attire includes patrol Class B or Class C utility uniforms or business casual attire. This includes collared shirts, polo shirts, khakis, jeans, dresses, blouses, skirts, and/or slacks. Jeans are not to be faded, torn, worn, ripped, or frayed. Shorts, tank tops, and and sandals are prohibited in the classroom, as is clothing that shows bare shoulders unless an accompanying blouse or top is worn as top garment at all times.

Outdoor Training Attire:

During Outdoor training or training that involves physical activity, appropriate loose-fitting clothing is permitted. Baseball hats or Boonie style hats are permitted. Shorts, sandals, and tank tops are prohibited. T-shirts are allowed, except those displaying words or logos that are or could be deemed offensive.

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The unit coordinating the training and/or P&T personnel may advise of additional attire restrictions or allowances as deemed appropriate for the training.

1036.3.6 CIVILIAN ATTIRE

There are assignments within the Department that do not require the wearing of a uniform because recognition and authority are not essential to their function. There are also assignments in which the wearing of civilian attire is necessary.

(a) All employees shall wear clothing that fits properly, is clean and free of stains, and not damaged or excessively worn.

(b) All male administrative, investigative and support personnel who elect to wear civilian clothing to work shall wear button style shirts with a collar, slacks or suits that are moderate in style.

(c) All female administrative, investigative, and support personnel who elect to wear civilian clothes to work shall wear dresses, slacks, shirts, blouses, or suits which are moderate in style.

(d) All personnel on temporary modified duty shall wear civilian clothing, which includes dresses, slacks, shirts, blouses, or suits that are moderate in style, unless otherwise directed.

(e) The following items shall not be worn on duty:

1. Swimsuit, tube tops, or halter-tops.
2. Spandex type pants or see-through clothing.
3. Distasteful printed slogans, buttons or pins.

(f) Variations from this order are allowed at the discretion of the Chief of Police or designee when the employee's assignment or current task is not conducive to the wearing of such clothing.

(g) No item of civilian attire may be worn on duty that would adversely affect the reputation of the Hayward or the morale of the employees.

1036.3.7 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief of Police, Hayward Police Department employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the Hayward Police Department to do any of the following (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 non-profit publication, or any motion picture, film, video, public broadcast, or any website.

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1036.3.8 OPTIONAL EQUIPMENT - MAINTENANCE AND REPLACEMENT

(a) Any of the items listed in the Uniform and Equipment Specifications as optional shall be purchased totally at the expense of the employee. No part of the purchase cost shall be offset by the Department for the cost of providing the Department issued item.

(b) Maintenance of optional items shall be the financial responsibility of the purchasing employee. For example, repairs due to normal wear and tear.

(c) Replacement of items listed in this order as optional shall be done as follows:

1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.

2. When the item is no longer functional because of damage in the course of the employee's duties, it shall be replaced following the procedures for the replacement of damaged personal property (see the Department Owned and Personal Property Policy).

1036.3.9 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Hayward Police Department employees may not wear any uniform item, accessory or attachment unless specifically authorized in this policy and/or the Uniform and Equipment Specifications Manual or by the Chief of Police or designee.

Hayward Police Department employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized by the Chief of Police or designee.

Exceptions: The wearing of appropriate clothing which deviates from this directive for the purpose of performing special assignments shall be with the authorization of a Division Commander.

1036.4 REVISIONS

Enacted: December 17, 2007

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Hiring Incentive Referral Program

1037.1 PURPOSE AND SCOPE

The Hiring Incentive Referral Program ("HIRP") provides compensation to Hayward Police Department (HPD) employees who refer individuals to HPD for employment as police officers.The purpose of the HIRP is to support the department's efforts to fill new and vacant full-time, permanent, budged positions, and to build organizational awareness of recruitment needs to meet staffing and service demands.

1037.2 ACCREDITATION STANDARDS

N/A

1037.3 HIRP OUTLINE AND ELIGIBILITY

The HIRP program provides a total of $2,000 or forty hours of compensation time ("comp-time") to current departmental employees who refer non-City employees to HPD for employment as a Police Officer. Referring employees may receive incentive awards in cash or as comp-time but may not receive a combination of both.

ELIGIBILITY GUIDELINES

1. The referrer must be a current employee of HPD.Referrals from City employees who are not employed by HPD are processed through their department.
2. The new employee must be hired into a vacant full-time, permanently budgeted Police Officer position.
3. The new employee must have no prior work history with the City of Hayward.
4. The referring employee obtains full compensation from the program after the new Police Officer passes probation.
5. Written notification of the referral must be provided to the Personnel and Training Unit from the referring employee prior to a formal offer of employment to the new employee.
6. Only one HIRP award can be granted per new employee referral.

INELIGIBILITY GUIDELINES

1. A referring employee cannot be an individual who is part of the applicant's hiring process.
2. Departmental employees whose regular duties include recruitment and hiring processes are not eligible for the program.

1037.4 PROCEDURE

The HIRP award procedure for HPD includes the referring employee, the Personnel and Training Unit, and the City of Hayward Finance Department. The Special Operations Commander or designee provides program oversight.

Referring Employee. The referring employee shall:

1. Refer the candidate(s) to apply for employment as a Police Officer.

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2. Provide written notice of the referral to the Personnel and Training Unit by completing and submitting a HIRP Application.The Hiring Incentive Referral Application is posted on HPDNet

HPD Personnel and Training Unit. The Personnel and Training Unit shall:

1. Notify the referring employee if they are eligible to participate in the program.
2. Confirm the new employee has been provided a formal offer of employment, then notify Payroll to process a $1,000 award payment, or twenty hours of comp-time, to the referring employee.
3. Confirm the new employee has passed the probationary period and notify Payroll to process a $1,000 payment, or twenty hours of comp-time, to the referring employee.
4. HIRP monetary awards are taxable income.

Payroll. The Payroll Department processes HIRP award disbursements.

Special Operations Commander. The Special Operations Commander or designee ensure that HIRP procedures are implemented properly.

1037.5 REVIEW OF PROGRAM

The Special Operations Commander or designee shall review the HIRP at the end of each fiscal year for program effectiveness and the need to continue the program based on recruitment needs.

1037.6 REVISIONS

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Hiring Bonus Program

1038.1 PURPOSE AND SCOPE

The hiring bonus program provides an incentive to eligible new hires for Police Officer positions in the Hayward Police Department ("HPD"). The purpose of the program is to promote HPD as an employer of choice for police officers, to establish candidate pools, and positively impact the hiring of police officers for the City of Hayward.

1038.2 ACCREDITATION STANDARDS

N/A

1038.3 PROGRAM OUTLINE

The hiring bonus program offers a $10,000 incentive to prospective police officers and police officer trainee applicants. The incentive is disbursed in four phases. A disbursement of $2,500 is provided following the completion each phase listed below:

Phase One. *Laterals and academy graduates* receive a $2,500 disbursement upon starting employment as a Police Officer with the Department. *Police Officer Trainees* are eligible for a $2,500 disbursement after successful completion of a POST certified police academy.

Phase Two. Successful completion of the Police Officer Field Training Program (FTO) permits a second disbursement of $2,500.

Phase Three. Successful completion of the probationary period permits a third disbursement of $2,500.

Phase Four. Two years of employment after completion of the probationary period permits the fourth disbursement of $2,500.

1038.4 BONUS PROCEDURE

Applicants: The applicant must complete and forward to the Personnel and Training Unit a Hiring Bonus Request Form (located on HPD Intranet), with supporting documentation, upon the successful completion of each Bonus Program phase listed above.This requires the following:

- Complete a Hiring Bonus Request Form, including supporting documentation, at the completion of each phase of the Bonus Program and submit it to the Personnel and Training Unit.Examples of supporting documentation include letters, Departmental emails, Interdepartmental Memorandums, and Employee Evaluations.
- Submit the Hiring Bonus Request Form, including attachments, to the P&T Unit within 90 days of completion of each Bonus Program phase.

P&T Unit: The P&T Unit shall verify the accuracy and sufficiency of the completed Hiring Bonus Request Form and supporting documentation for each phase, then forward the request to the Division Commander for approval and submission to Payroll.

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1038.5 REVIEW OF PROGRAM

The Special Operations Commander or designee shall review the program at the end of each fiscal year for programs effectiveness and the need to continue the program based on recruitment needs.

1038.6 REVISIONS

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Wellness Program

1039.1 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.

1039.1.1 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.

1039.2 POLICY

It is the policy of the Hayward 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.

1039.3 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.

1039.4 [DEPARTMENT/OFFICE] PEER SUPPORT

1039.4.1 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:

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- 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.

1039.4.2 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.

1039.4.3 PEER SUPPORT MEMBER TRAINING
A [department/office] peer support member should complete [department/office]-approved training prior to being assigned.

1039.5 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.

Attendance at the debriefing should only include peer support members and those directly involved in the incident.

1039.6 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).

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1039.7 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

1039.8 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.

1039.9 TRAINING

The coordinator or the authorized designee should collaborate with the Personnel and Training Administrator 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.

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- 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 Personnel and Training Administrator as appropriate for inclusion in training records.

1039.10 REVISIONS
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Attachments

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Commission on Peace Officer Standards and Training Hate Crimes Model Policy 2019.pdf

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POST HATE CRIMES MODEL POLICY

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

2019

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FOREWORD

Hate Crimes (i.e. crimes motivated by bias) convey a message of terror and exclusion, not just to the immediate victims but to entire communities. They often target victims who are least able to defend themselves. They cause trauma that is more extreme and longer lasting than similar crimes committed for other motivations. They can spark retaliatory crimes, escalating the cycle of crime and violence. If not addressed professionally and thoroughly they may undermine public confidence in law enforcement.

The 2018 California State Auditor's Report, titled "Hate Crimes in California," found that California law enforcement has not taken adequate action to identify, report, and respond to hate crimes. The report found that agencies did not properly identify some hate crimes, and underreported or misreported hate crimes as well. The report also noted that hate crimes are on the rise in California, increasing in both 2015 and 2016.

California Penal Code (CPC) 422.87 added new language and requirements to any newly created or updated agency hate crimes policy. Effective January 1, 2019, any local law enforcement agency that updates an existing hate crimes policy, or adopts a new one, shall include the content of the model policy framework provided in this document as well as any revisions or additions to the model policy in the future.

These guidelines are the primary elements that law enforcement executives are now required to incorporate into their hate crimes policy if an agency creates a new hate crimes policy or updates an existing one. The guidelines are designed for department-wide application and are intended to reflect a values-driven "top-down" process. They are intended to assist with the development and delivery of training and ensure proper identification, investigation, and reporting of hate crimes within each agency's jurisdiction.

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POLICY GUIDELINES

GUIDELINE #1

Develop the foundation for the agency's hate crimes policy.

The law enforcement executive is responsible for providing leadership, communicating organizational values to the department and the community, paying attention to hate crime trends and current events that could trigger hate incidents and/or hate crimes in the community, and providing education and training to establish the foundation for the agency's hate crimes policy. Employees' ability to respond appropriately to hate crimes and hate incidents is maximized when the executive effectively establishes and communicates the foundational values of the organization.

GUIDELINE #2

Develop a hate crimes policy for the agency.

I. An agency's hate crimes policy shall include the statutory definition of a hate crime, and its policy and programs should minimally include the following:
   A. Response
   B. Training
   C. Planning and Prevention
   D. Reporting

The law enforcement executive is responsible for the initial development of the policy and should be actively involved in its implementation. See the appendix for the exemplar "Message from the Agency Chief Executive".

GUIDELINE #3

Develop expertise to identify and investigate hate crimes.

The law enforcement executive is responsible for ensuring that the agency possesses expertise to identify and investigate hate crimes, as well as ensuring compliance with state and federal reporting and public information requirements. Agencies should assign identified personnel to appropriate training to develop expertise and knowledge to investigate hate crimes.

Hate crimes are low-frequency events with high-risk consequences for the agency and community. Agencies shall provide a checklist to first responders to provide direction for the investigation of all hate crimes as mandated by CPC 422.87.

GUIDELINE #4

Develop and implement cooperative hate crimes plans with other law enforcement agencies.

I. Coordinate cooperative efforts among regional, state, federal, and tribal law enforcement agencies to share information and training, and develop strategies to prevent hate crime activity.

II. Develop and/or participate in law enforcement intelligence networks to enhance the agency's ability to anticipate potential hate crime targets. This interaction should include sharing intelligence information with other jurisdictions and cooperative investigations, arrests, and prosecutions if appropriate.

GUIDELINE #5

Develop and implement cooperative hate crime plans with the community and related governmental and non-governmental organizations, as appropriate.

I. Collaborate with the community, including human relations/civil rights organizations, advocacy groups, service organizations, neighborhood associations, religious institutions, local schools and colleges, to do the following:
   - Develop a network to build rapport with community groups

- Develop a protocol for response to hate crimes
- Obtain witness and victim cooperation
- Provide support services to victims
- Collect demographic information about specific communities
- Identify hate crime trends based upon current events and activity (hate crimes and/or hate incidents)
- Identify periods of increased vulnerability based on significant dates and events for affected communities

II. Law enforcement should identify and seek out cultural diversity training and information from/about specific communities within its jurisdiction (immigrant, Muslim, Arab, LGBTQ, Black or African American, Jewish, Sikh, disability, etc.) to strengthen agency awareness.

GUIDELINE #6

Conduct an annual assessment of the agency's hate crimes policy and its ongoing implementation.

The assessment should include:

I. A review to ensure compliance with the POST Hate Crimes Model Policy and California law.

II. A review and analysis of the agency's data collection, policy, and annual mandated reporting of hate crimes.

III. A review and updating of the agency's hate crimes brochure to ensure compliance with CPC 422.92.

IV. A review of any existing or available data or reports, including the annual California Attorney General's report on hate crimes, in preparation for, and response to, future hate crime trends.

V. Annual outreach to the community including human relations/civil rights organizations, advocacy groups, service organizations, neighborhood associations, religious institutions, local schools, and colleges assessing the agency's responsiveness to hate crimes.

MINIMUM LEGAL REQUIREMENTS FOR AN AGENCY'S HATE CRIMES POLICY

CPC 13519.6, effective January 1, 2005, minimally requires:

1. A message from the law enforcement agency's chief executive officer to the agency's officers and staff concerning the importance of hate crime laws and the agency's commitment to enforcement.
2. The definition of "hate crime" in Penal Code section 422.55.
3. References to hate crime statutes including Penal Code section 422.6.
4. A title-by-title specific protocol that agency personnel are required to follow, including, but not limited to, the following:
   a. Preventing and preparing for likely hate crimes by, among other things, establishing contact with persons and communities who are likely targets, and forming and cooperating with community hate crime prevention and response networks.
   b. Responding to reports of hate crimes, including reports of hate crimes committed under the color of authority.
   c. Accessing assistance, by, among other things, activating the Department of Justice hate crimes rapid response protocol when necessary.
   d. Providing victim assistance and follow-up, including community follow-up.
   e. Reporting

CPC 422.87, effective January 1, 2019, states and minimally requires:

Each local law enforcement agency may adopt a hate crimes policy. Any local law enforcement agency that updates an existing hate crimes policy or adopts a new one shall include, but not limited to, the following:

1. The definitions in Penal Code sections 422.55 and 422.56.
2. The content of the model policy framework that the Commission on Peace Officer Standards and Training developed pursuant to Section 13519.6 (above) and any content that the commission may revise or add in the future, including any policy, definitions, response and reporting responsibilities, training resources, and planning and prevention methods.
3. Information regarding bias motivation
   a. For the purposes of this paragraph, "bias motivation" is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.
      i. In recognizing suspected disability-bias hate crimes, the policy shall advise officers to 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.

ii. In recognizing suspected disability-bias hate crimes, the policy also shall advise officers to 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, if 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 than those of the victim, those 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.

b. Information regarding the general underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes *and a plan for the agency to remedy this underreporting* (emphasis added).

c. A protocol for reporting suspected hate crimes to the Department of Justice pursuant to Penal Code section 13023.

d. A checklist of first responder responsibilities, including, but not limited to, being sensitive to effects of the crime on the victim, determining whether any additional resources are needed on the scene to assist the victim or whether to refer the victim to appropriate community and legal services, and giving the victims and any interested persons the agency's hate crimes brochure, as required by Section 422.92.

e. A specific procedure for transmitting and periodically retransmitting the policy and any related orders to all officers, including a simple and immediate way for officers to access the policy in the field when needed.

f. The title or titles of the officer or officers responsible for assuring that the department has a hate crime brochure as required by Section 422.92 and ensuring that all officers are trained to distribute the brochure to all suspected hate crime victims and all other interested persons.

g. A requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the chief, sheriff, director, or other chief executive of the law enforcement agency or other command-level officer to whom the chief executive officer formally delegates this responsibility.

h. Any local law enforcement agency that updates an existing hate crimes policy or adopts a new hate crimes policy may include any of the provisions of a model hate crime policy and other relevant documents developed by the International Association of Chiefs of Police that are relevant to California and consistent with this chapter.

MODEL POLICY FRAMEWORK

Purpose

This model policy framework 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 law enforcement agencies may best use its resources to investigate and solve an offense, in addition to building community trust and increasing police legitimacy.

Policy

It is the policy of this agency 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 agency will employ necessary 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 agency should attend to the security and related concerns of the immediate victims and their families as feasible.

The agency policy shall include a requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the chief, sheriff, director, or other chief executive of the law enforcement agency or other command-level officer to whom the chief executive officer formally delegates this responsibility.

The agency policy shall provide a specific procedure for transmitting and periodically retransmitting the policy and any related orders to all officers, including a simple and immediate way for officers to access the policy in the field when needed.

Response, Victim Assistance and Follow-up

Initial response

First responding officers should know the role of all department personnel as they relate to the agency'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. Responding officers should ensure the crime scene is properly protected, preserved and processed.

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

1. Use agency checklist (per CPC 422.87) to assist in the investigation of any hate crime (see appendix, page 21, for exemplar checklist based on the Los Angeles Police Department Hate Crimes Supplemental Report with the agency's permission).

2. Stabilize the victim(s) and request medical attention when necessary.
3. Ensure the safety of victims, witnesses, and perpetrators.
   a. Issue a Temporary Restraining Order (if applicable).
4. 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.
5. Ensure that the crime scene is properly protected, preserved, and processed and that all physical evidence of the incident is removed 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 ensure that it is removed or covered up as soon as possible. Agency personnel should follow-up to ensure that this is accomplished in a timely manner.
6. Collect and photograph physical evidence or indicators of hate crimes such as:
   a. Hate literature.
   b. Spray paint cans.
   c. Threatening letters.
   d. Symbols used by hate groups.
7. Identify criminal evidence on the victim.
8. Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.
9. Conduct a preliminary investigation and record pertinent information including, but not limited to:
   a. Identity of suspected perpetrator(s).
   b. Identity of witnesses, including those no longer at the scene.
   c. The offer of victim confidentiality per Government Code (GC) 5264.
   d. Prior occurrences, in this area or with this victim.
   e. Statements made by suspects; exact wording is critical.
   f. The victim's protected characteristics and determine if bias was a motivation "in whole or in part"[1] in the commission of the crime.
      1. "Bias motivation" is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.
         (a) In recognizing suspected disability-bias hate crimes, the policy shall advise officers to 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

[1]See Appendix, page 15, for definition

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.

(b) In recognizing suspected disability-bias hate crimes, the policy also shall advise officers to 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, if 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 than those of the victim, those 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.

10. Adhere to CPC 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.
11. Provide information regarding immigration remedies available to victims of crime. (U-Visa, T-Visa, S-Visa, etc.).
12. Provide the agency's Hate Crimes Brochure (per CPC 422.92) if asked, if necessary or per policy (if applicable).
13. Utilize proper techniques for interviewing people with disabilities and being aware of and providing appropriate accommodations (such as ADA standards, Braille, visuals, translators for the deaf or hard of hearing, etc.).
14. Report any suspected multi-mission extremist crimes to the agency Terrorism Liaison Officer (TLO), or assigned designee, and direct the TLO/ designee to send the data to the Joint Regional Information Exchange System.

Investigation

Investigators at the scene of or while performing follow-up investigation on a suspected hate or bias crimes (or hate incident if agency policy requires it) should take all actions deemed necessary, including, but not limited to, the following:

1. Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).
2. Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.
3. Utilize proper techniques for interviewing people with disabilities and being aware of and providing appropriate accommodations (such as ADA standards, Braille, visuals, translators for the deaf or hard of hearing, etc.).
4. Fully investigate any report of hate crime committed under the color of authority per CPC 422.6 and CPC 13519.6.

5. Collect and photograph physical evidence or indicators of hate crimes such as:
   a. Hate literature.
   b. Spray paint cans.
   c. Threatening letters.
   d. Symbols used by hate groups.
   e. Desecration of religious symbols, objects, or buildings.
6. Request the assistance of translators or interpreters when needed to establish effective communication.
7. Conduct a preliminary investigation and record information regarding:
   a. Identity of suspected perpetrator(s).
   b. Identity of witnesses, including those no longer at the scene.
   c. Offer of victim confidentiality per GC 5264.
   d. Prior occurrences, in this area or with this victim.
   e. Statements made by suspects; exact wording is critical.
   f. Document the victim's protected characteristics.
8. Provide victim assistance and follow-up.
9. Canvass the area for additional witnesses.
10. Examine suspect's social media activity for potential evidence of bias motivation.
11. Coordinate the investigation with agency, state, and regional intelligence operations. These sources can provide the investigating officer with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.
12. Coordinate the investigation with the crime scene investigation unit (if applicable) or other units of the agency.
13. Determine if the incident should be classified as a hate crime.
14. Take steps to ensure appropriate assistance is provided to hate crime victim(s), including the following measures:
    a. Contact the victim periodically to determine whether he/she is receiving adequate and appropriate assistance.
    b. Provide ongoing information to the victim about the status of the criminal investigation.
    c. Provide the victim and any other interested person the brochure on hate crimes per CPC 422.92 and information on any local advocacy groups (if asked).
15. Report any suspected multi-mission extremist crimes to the agency TLO, or assigned designee, and direct the TLO or designee to send the data to the Joint Regional Information Exchange System.
16. Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents (if directed by policy), and determine if organized hate groups are involved.

Supervision

The supervisor shall confer with the initial responding officer(s) and ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

1. Provide immediate assistance to the crime victim by:
   a. Expressing the law enforcement agency's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
   b. Expressing the department's interest in protecting victims' anonymity (confidentiality forms GC 6254) to the extent possible. Allow the victim to convey his/her immediate concerns and feelings.
   c. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy or departmental chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per CPC 422.92).
2. 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.
3. 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.
4. 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 at specific locations that could become targets).
5. Ensure hate crimes are properly reported, including reporting to the Department of Justice, pursuant to CPC 13023.
6. Ensure adherence to CPC 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. (U-Visa, T-Visa, S-Visa, etc.)
7. Respond to and investigate any reports of hate crimes committed under the color of authority.
8. Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For information see the California Department of Justice webpage or use following link: https://oag.ca.gov/sites/all/files/agweb/pdfs/civilrights/AG-Rapid-Response-Team-Protocol-2.pdf
9. Report or ensure any suspected multi-mission extremists crimes are reported to the agency TLO, or assigned designee, and direct the TLO/ designee to send the data to the Joint Regional Information Exchange System.
10. Make a final determination as to whether the incident should be classified as a hate crime.

Training

All staff, including dispatch, desk personnel, volunteers, records, support staff, officers, supervisors, and managers shall be properly trained on the department's hate crimes policy. The agency will follow all legislatively mandated training requirements.

POST offers training and video courses to assist law enforcement in the identification, investigation, documentation and reporting of hate crimes. These courses provide officers with information and skills necessary to effectively identify, investigate, document and report hate crimes. Various training programs include the history and definitions of hate crimes, recognition of hate groups, international terrorism, legal considerations, victims' considerations, initial response duties, victim interviewing and care, suspect identification and interrogation, evidence identification, report writing, the role of law enforcement, investigative strategies, intelligence collection, supervisory roles, community relations, media relations and local program training development, and other topics such as proper use of computer systems and methods for reporting. POST also maintains an extensive array of training videos on applicable topics such as working with those with mental illness and intellectual disabilities, hate crimes, and working with minority communities.

For more information on POST training opportunities and available videos, visit the POST website at *www.post.ca.gov*. In conjunction with POST training opportunities, trainers may utilize other state and federal agencies that offer training courses, such as the U.S. Department of Justice.

Planning and Prevention

The general underreporting of hate crimes is an identified issue in California. Underreporting is caused by victims not reporting hate crimes or hate incidents due to a number of factors, including fear of reprisal and the belief that law enforcement will not properly investigate them. A report by the State Auditor in 2018 determined that California law enforcement has not taken adequate action to identify, report and respond to hate crimes. There is also an extreme underreporting of anti-disability and anti-gender hate crimes. The agency's plan to remedy this underreporting *shall be inserted into the policy* (emphasis added).

In order to facilitate the recommendations contained within this policy, it is strongly recommended that agencies build and strengthen relationships with the community, engage in dialogue, and provide education to the community about this policy. Agency personnel are also encouraged to learn about the inherent issues concerning their communities in relation to hate crimes. Assigned personnel should perform the following:

1. Meet with residents in target communities to allay fears; emphasize the agency's concern over this and related incidents; reduce the potential for counter-violence; and provide safety, security, and crime prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.
2. Provide direct and referral assistance to the victim and his/her family.
3. Conduct public meetings on hate crime threats and violence in general.
4. Establish relationships with formal community-based organizations and leaders.
5. Expand, where appropriate, preventive programs such as hate, bias, and crime reduction seminars for school children.

6. Review the Attorney General's latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab/Middle Eastern and Islamic communities.[2]
7. Provide orientation of and with communities of specific targeted victims such as immigrants, Muslims, Arabs, LGBTQ, Black or African-American, Jewish, Sikh, disabled persons, etc.

Hate crimes are not only a crime against the targeted victim(s) but also have impacts on the victim's family and community. Working constructively with segments of this larger community after such crimes is essential to help reduce fears, stem possible retaliation, prevent additional hate crimes, and encourage any other previously victimized individuals to step forward and report such crimes. This is particularly important if an upward trend has been identified in these crimes.

Although hate incidents are not criminal events, they can be indicators of, or precursors to, hate crimes. Most California law enforcement agencies do not track hate incidents. It is recommended that hate incidents be investigated and documented, if directed by policy, as part of the overall planning to prevent hate crime.

Tracking social media is also another identified area to find indicators of, or precursors to, hate crimes. It is recommended that agencies assign personnel to find, evaluate and monitor public social media sources to identify possible suspects in reported hate crimes, or to determine suspects or suspect groups in future hate crimes or hate incidents affecting the identified individuals, groups or communities that may be victimized, and planned hate-based events.

Release of Information

Agencies should have procedure and/or policy on public disclosure of hate crimes. Establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure would assist greatly in any disclosure.

The benefit of public disclosure of hate crime incidents includes:

1. Dissemination of correct information.
2. Assurance to affected communities or groups that the matter is being properly and promptly investigated.
3. The ability to request information regarding the commission of the crime(s) from the victimized community.

Agencies should provide the supervisor, public information officer, or designee with information that can be responsibly reported to the media. When appropriate, the law enforcement media spokesperson should reiterate that the hate crimes will not be tolerated, will be taken seriously, and will be prosecuted to the full extent of the law.

Agencies are encouraged to consider the following when releasing information to the public regarding hate crimes and hate incidents that have been reported within the jurisdiction:

[2]As described in CPC 13519.6(b)(8)

1. Informing community organizations in a timely manner when a community group has been the target of a hate crime.
2. Informing the community of the impact of these crimes on the victim, the victim's family, and the community, and the assistance and compensation available to victims.
3. Informing the community regarding hate crime law and the legal rights of, and the remedies available to, victims of hate crimes.
4. Providing the community with on-going information regarding hate crime and/or hate incidents (if policy requires it).

Reporting

The agency policy shall require development of a procedure for data collection, documentation, and mandated reporting requirements. The agency shall:

1. Ensure that hate crimes are properly investigated, documented and reported.
2. During documentation, ensure hate crimes are flagged properly to allow for required reporting to the California Department of Justice. This is typically indicated by the title/penal code section identifying the report as a hate crime. Some agencies have added a check box specifically indicating a hate crime that could, if required by the agency policy, require a secondary review by an investigator/detective, supervisor or other identified party. It is the agency executive's responsibility to determine the form of documentation and type of indicators on crime reports.
3. The agency head or their designee (identified in the agency policy) should make a final determination as to whether the incident should be classified as a hate crime by the agency.
4. Agencies shall develop procedures to comply with legally mandated reporting, including the California Department of Justice, pursuant to CPC 13023.

Checklist for the agency's policy creation

- ☐ Message from the law enforcement's agency's chief executive is included
- ☐ The updated existing policy or newly adopted policy includes the content of the model policy framework from POST.
- ☐ Definition of "hate crime" included from:
  - ☐ CPC 422.55
  - ☐ CPC 422.56
  - ☐ CPC 422.6
- ☐ Title by title specific protocol regarding:
  - ☐ Prevention
    - ☐ Is contact is established with identified persons and/or communities who are likely targets?
    - ☐ Have we formed and/or are we cooperating with hate crime prevention and response networks?
    - ☐ Has a plan for the agency to remedy underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes been created?
  - ☐ Response
    - ☐ Requirement that all hate crimes be properly investigated and supervised
    - ☐ Requirement that any hate crimes committed under the color of authority are investigated
  - ☐ Accessing Assistance
    - ☐ Information provided for activating the Department of Justice hate crime rapid response protocol when necessary
  - ☐ Victim assistance and follow-up
  - ☐ Reporting
    - ☐ Protocol for reporting suspected hate crimes to the Department of Justice per CPC 13023
  - ☐ Training
    - ☐ Has a checklist for first responders been created and provided personnel (see exemplar officer checklist in appendix)
      - ☐ Does the checklist include first responder responsibilities include:
        - ☐ Determining the need for additional resources if necessary?
        - ☐ Referral information for appropriate community and legal services?
        - ☐ The requirement to provide the agency's hate crimes brochure per CPC 422.92?
      - ☐ Information regarding bias motivation from CPC 422.87
      - ☐ Information regarding the general underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes
- ☐ Definitions of terms used in the policy are listed
- ☐ Specific procedure for transmitting and periodically retransmitting the policy and any related orders to officers is included.
  - ☐ Procedure shall include a simple and immediate way for officers to access the policy in the field when needed
- ☐ Title or titles of the officer or officers responsible for assuring the department has a hate crime brochure (per CPC 422.92) and ensuring that all officers are trained to distribute the brochure to all suspected hate crime victims and all other interested persons.
- ☐ A requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the law enforcement chief executive or the chief executive's designee.

APPENDIX

Definitions and Laws

In accordance with CPC sections 422.55, 422.56, 422.6, and 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:

Hate crime

"Hate crime" 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:

(1) Disability.

(2) Gender.

(3) Nationality.

(4) Race or ethnicity.

(5) Religion.

(6) Sexual orientation.

(7) Association with a person or group with one or more of these actual or perceived characteristics.

(b) "Hate crime" includes, but is not limited to, a violation of Section 422.6.

"Association with a person or group with these actual or perceived characteristics" Includes advocacy for, identification with, or being on the ground owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of those characteristics listed in the definition of "hate crime" under paragraphs 1 to 6, inclusive, of CPC 422.55 subdivision (a).

Note: A "hate crime" need not be motivated by hate but may be motivated by any bias against a protected characteristic.

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 and solicitation to commit any crime.

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

Bias Motivation

Bias motivation is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.

Disability 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, if 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 than those of the victim, those 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.

Disability

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

Gender

Gender means sex and includes a person gender identity and gender expression. Gender expression means a person's gender-related appearance and behavior, whether or not stereotypically associated with the persons assigned sex at birth. A person's gender identity and gender related appearance and behavior, whether or not stereotypically associated with the person's assigned sex at birth.

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 crime would not have been committed but for the actual or perceived characteristic.

Nationality

Nationality includes citizenship, country of origin, and national origin.

Race or Ethnicity

Race or ethnicity includes ancestry, color, and ethnic background.

Religion

Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

Sexual orientation

Sexual orientation means heterosexuality, homosexuality, or bisexuality.

Victim

Victim includes, but is not limited to, a community center, educational facility, entity, family, group, individual, office, meeting hall, person, place of worship, private institution, public

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.

HATE CRIME CHECKLIST

VICTIM

Victim Type:

☐ **Individual**
Legal name (Last, First): _____
Other Names used (AKA): _____

☐ **School, business or organization**
Name: _____
Type: _____
(e.g., non-profit, private, public school)
Address: _____

☐ **Faith-based organization**
Name: _____
Faith: _____
Address: _____

Target of Crime (Check all that apply):

☐ Person ☐ Private property ☐ Public property

☐ Other _____

Nature of Crime (Check all that apply):

☐ Bodily injury ☐ Threat of violence

☐ Property damage

☐ Other crime: _____

Property damage - estimated value _____

BIAS

Type of Bias
(Check all characteristics that apply):

☐ Disability
☐ Gender
☐ Gender identity/expression
☐ Sexual orientation
☐ Race
☐ Ethnicity
☐ Nationality
☐ Religion
☐ Significant day of offense
(e.g., 9/11, holy days)
☐ Other: _____

Specify disability (be specific):

_____

_____

Actual or Perceived Bias – Victim's Statement:

☐ Actual bias [Victim actually has the indicated characteristic(s)].

☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].

If perceived, explain the circumstances in narrative portion of Report.

Reason for Bias:

Do you feel you were targeted based on one of these characteristics?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you know what motivated the suspect to commit this crime?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you feel you were targeted because you associated yourself with an individual or a group?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Are there Indicators the suspect is affiliated with a criminal street gang?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Bias Indicators (Check all that apply):

☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used
☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____

Describe with exact detail in narrative portion of Report.

HISTORY

Relationship Between Suspect & Victim:

Suspect known to victim? ☐ Yes ☐ No
Nature of relationship: _____
Length of relationship: _____
If Yes, describe in narrative portion of Report

☐ Prior reported incidents with suspect? Total # _____
☐ Prior unreported incidents with suspect? Total # _____
Restraining orders? ☐ Yes ☐ No
If Yes, describe in narrative portion of Report
Type of order: _____ Order/Case# _____

WEAPONS

Weapon(s) used during incident? ☐ Yes ☐ No Type: _____
Weapon(s) booked as evidence? ☐ Yes ☐ No
Automated Firearms System (AFS) Inquiry attached to Report? ☐ Yes ☐ No

HATE CRIME CHECKLIST

EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No

Photos taken? ☐ Yes ☐ No

Total # of photos: _____ D#: _____

Taken by: _____ Serial #: _____

Recordings: ☐ Video ☐ Audio ☐ Booked

Suspect identified: ☐ Field ID ☐ By photo ☐ Known to victim

OBSERVATIONS

VICTIM	SUSPECT
☐ Tattoos	☐ Tattoos
☐ Shaking	☐ Shaking
☐ Unresponsive	☐ Unresponsive
☐ Crying	☐ Crying
☐ Scared	☐ Scared
☐ Angry	☐ Angry
☐ Fearful	☐ Fearful
☐ Calm	☐ Calm
☐ Agitated	☐ Agitated
☐ Nervous	☐ Nervous
☐ Threatening	☐ Threatening
☐ Apologetic	☐ Apologetic
☐ Other observations: _____	☐ Other observations: _____

ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):

Has suspect ever threatened you? ☐ Yes ☐ No

Has suspect ever harmed you? ☐ Yes ☐ No

Does suspect possess or have access to a firearm? ☐ Yes ☐ No

Are you afraid for your safety? ☐ Yes ☐ No

Do you have any other information that may be helpful? ☐ Yes ☐ No

Resources offered at scene: ☐ Yes ☐ No Type: _____

MEDICAL

Victim	Suspect	
☐	☐	Declined medical treatment
☐	☐	Will seek own medical treatment
☐	☐	Received medical treatment

Authorization to Release Medical Information, Form 05.03.00, signed? ☐ Yes ☐ No

Paramedics at scene? ☐ Yes ☐ No Unit # _____

Name(s)/ID #: _____

Hospital: _____

Jail Dispensary: _____

Physician/Doctor: _____

Patient #: _____

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

Hate Crime Checklist.pdf

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HATE CRIME CHECKLIST

VICTIM

Victim Type:

☐ **Individual**
Legal name (Last, First): _____
Other Names used (AKA): _____

☐ **School, business or organization**
Name: _____
Type: _____
(e.g., non-profit, private, public school)
Address: _____

☐ **Faith-based organization**
Name: _____
Faith: _____
Address: _____

Target of Crime (Check all that apply):

☐ Person ☐ Private property ☐ Public property

☐ Other _____

Nature of Crime (Check all that apply):

☐ Bodily injury ☐ Threat of violence

☐ Property damage

☐ Other crime: _____

Property damage - estimated value _____

BIAS

Type of Bias
(Check all characteristics that apply):

☐ Disability
☐ Gender
☐ Gender identity/expression
☐ Sexual orientation
☐ Race
☐ Ethnicity
☐ Nationality
☐ Religion
☐ Significant day of offense
(e.g., 9/11, holy days)
☐ Other: _____

Specify disability (be specific):

_____

_____

Actual or Perceived Bias – Victim's Statement:

☐ Actual bias [Victim actually has the indicated characteristic(s)].

☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].

If perceived, explain the circumstances in narrative portion of Report.

Reason for Bias:

Do you feel you were targeted based on one of these characteristics?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you know what motivated the suspect to commit this crime?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you feel you were targeted because you associated yourself with an individual or a group?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Are there Indicators the suspect is affiliated with a criminal street gang?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Bias Indicators (Check all that apply):

☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used
☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____

Describe with exact detail in narrative portion of Report.

HISTORY

Relationship Between Suspect & Victim:

Suspect known to victim? ☐ Yes ☐ No
Nature of relationship: _____
Length of relationship: _____
If Yes, describe in narrative portion of Report

☐ Prior reported incidents with suspect? Total # _____
☐ Prior unreported incidents with suspect? Total # _____
Restraining orders? ☐ Yes ☐ No
If Yes, describe in narrative portion of Report
Type of order: _____ Order/Case# _____

WEAPONS

Weapon(s) used during incident? ☐ Yes ☐ No Type: _____
Weapon(s) booked as evidence? ☐ Yes ☐ No
Automated Firearms System (AFS) Inquiry attached to Report? ☐ Yes ☐ No

HATE CRIME CHECKLIST

EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No

Photos taken? ☐ Yes ☐ No

Total # of photos: _____ D#: _____

Taken by: _____ Serial #: _____

Recordings: ☐ Video ☐ Audio ☐ Booked

Suspect identified: ☐ Field ID ☐ By photo ☐ Known to victim

OBSERVATIONS

VICTIM	SUSPECT
☐ Tattoos	☐ Tattoos
☐ Shaking	☐ Shaking
☐ Unresponsive	☐ Unresponsive
☐ Crying	☐ Crying
☐ Scared	☐ Scared
☐ Angry	☐ Angry
☐ Fearful	☐ Fearful
☐ Calm	☐ Calm
☐ Agitated	☐ Agitated
☐ Nervous	☐ Nervous
☐ Threatening	☐ Threatening
☐ Apologetic	☐ Apologetic
☐ Other observations: _____	☐ Other observations: _____

ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):

Has suspect ever threatened you? ☐ Yes ☐ No

Has suspect ever harmed you? ☐ Yes ☐ No

Does suspect possess or have access to a firearm? ☐ Yes ☐ No

Are you afraid for your safety? ☐ Yes ☐ No

Do you have any other information that may be helpful? ☐ Yes ☐ No

Resources offered at scene: ☐ Yes ☐ No Type: _____

MEDICAL

Victim	Suspect	
☐	☐	Declined medical treatment
☐	☐	Will seek own medical treatment
☐	☐	Received medical treatment

Authorization to Release Medical Information, Form 05.03.00, signed? ☐ Yes ☐ No

Paramedics at scene? ☐ Yes ☐ No Unit # _____

Name(s)/ID #: _____

Hospital: _____

Jail Dispensary: _____

Physician/Doctor: _____

Patient #: _____

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

Missing Child Reporting Matrix.jpg

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Statutes and Legal Requirements.pdf

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Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

Definitions

CPC 422.55 - Provides general definition of hate crimes in California.

CPC 422.56- Provides definitions of terms included in hate crimes statutes.

GC 12926- Disability-related definitions applicable to some hate crime statutes.

Felonies

Hate Crimes

CPC 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

Related Crimes

CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.

CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.

CPC 288(b)(2) - Sexual assault of dependent person by caretaker

CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.

CPC 11413 - Arson or destructive device at place of worship.

Misdemeanors

Hate Crimes

CPC 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

Related Crimes

CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.

Enhancements

CPC 190.2(a)(16) - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 190.3 - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 422.75 - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

CPC 1170.8 - Enhancement for robbery or assault at a place of worship.

CPC 1170.85(b) - Felony assault or battery enhancement due to age or disability.

Reporting

CPC 13023- Requirement for law enforcement agencies to report hate crime data to DOJ.

WI 15630 – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

Training and Policy Requirements

CPC 422.87 - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

CPC 13519.6 - Defines hate crime training requirements for peace officers.

CPC 13519.41 - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

Miscellaneous Provisions

CPC 422.78 - Responsibility for prosecution of stay away order violations.

CPC 422.86 - Public policy regarding hate crimes.

CPC 422.89 - Legislative intent regarding violations of civil rights and hate crimes

CPC 422.92 - Hate crimes victims brochure requirement for law enforcement agencies.

CPC 422.93 - Protection of victims and witnesses from being reported to immigration authorities.

GC 6254 - Victim confidentiality.

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